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THE WHITE HOUSE

WASHINGTON

July 12, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Federal Office Automation Conference,
November 6-8, 1984: Request for Video-
tape and President's Acceptance of
Honorary Chairmanship

Craig Fuller has asked for our views as soon as possible on a request that the President agree to serve as Honorary Chairman of the Federal Office Automation Conference, to be held November 6-8, 1984. The President did a videotape for the Conference last year, and Conference Chairman William A. Saxton would like to expand the President's participation to promote the shared goal of increasing the efficiency of Federal offices. Fuller is interested in advancing this goal and accordingly recommends that the President accept the Honorary Chairmanship and do another welcoming videotape. Fuller notes that the Conference is run for profit, but argues that the admission charges seem reasonable and doubts that the President's expanded involvement will increase attendance.

We generally do not approve acceptance of honorary chairman positions for charitable endeavors and surely should not do so for commercial enterprises. People make money off of this conference, and they should not be permitted to use the Presidency to increase their take. Even the videotape strikes me as problematic, but the President did one before, and we can at least shape the message as one promoting Federal office automation and efficiency rather than the commercial activities of the Conference itself. A memorandum to Fuller outlining our policies on honorary chairmanships and endorsement of commercial enterprises is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

July 12, 1984

MEMORANDUM FOR CRAIG L. FULLER
ASSISTANT TO THE PRESIDENT
FOR CABINET AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Federal Office Automation Conference,
November 6-8, 1984: Request for Video-
tape and President's Acceptance of
Honorary Chairmanship

You have asked for our views on a request that the President serve as Honorary Chairman of the Federal Office Automation Conference, to be held November 6-8, 1984. You noted that the President did a videotape for the Conference last year, and that his expanded involvement this year would help promote the goal of increased Federal office efficiency.

Established White House policy generally limits the participation of the President as honorary chairman to charitable endeavors, and even then generally to those that are traditional (e.g., American Red Cross) or those with which the President or Mrs. Reagan have a longstanding personal association (e.g., the U.S. Horse Cavalry Association). The President has never served as honorary chairman of a commercial endeavor. Doing so would contravene our policy of not permitting the President's name, likeness, photograph, or signature to be used in any manner that suggests or could be construed as an endorsement of a commercial product or enterprise. We frequently turn down requests that the President serve as honorary chairman of the most laudable charitable activities; I hardly think we should accept such an invitation from a for-profit commercial enterprise. It is permissible for the President to do a videotape, as he has done in the past, discussing the goal of increasing Federal office automation, but the direct personal endorsement that would be conveyed by the acceptance of the honorary chairmanship strikes me as very objectionable.

FFF:JGR:aea 7/12/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 12, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Endorsement for Radio America

Mr. Deaver has asked for our views on a request that the President send a message endorsing Radio America. Radio America is a new 501(c)(3) venture, a production of the American Studies Center. Both entities are headed by Jim Roberts, former executive director of the White House Fellows program. Radio America will syndicate a radio commentary program, with commentary provided by leading conservative figures such as Lew Lehrman, M. Stanton Evans, and Ralph de Toledano.

I discussed the proposal with Sherrie Cooksey, who advised that it presented no difficulties under the election laws. Indeed, as a 501(c)(3) entity, Radio America may not "participate in, or intervene in...any political campaign on behalf of any candidate for public office." 26 U.S.C. § 501(c)(3). I am nonetheless reluctant to approve the Presidential letter, because the Radio America syndication will compete with other radio programs -- primarily commercial ones -- for air time, and the President should not tilt that marketplace selection process.

Since the activities of Radio America are educational and not-for-profit, however, we could approve the letter, with the caveat that it not be used in advertising or fundraising. Those constraints probably defeat the entire purpose of the letter as envisioned by Jim Roberts, but without them I think the President would be inappropriately interfering in the commercial realm (albeit on behalf of a non-profit entity). The attached memorandum for Deaver approves the letter only if Jim Roberts is cautioned as to its use, and also suggests minor revisions in the proposed text.

Attachment

THE WHITE HOUSE

WASHINGTON

July 12, 1984

MEMORANDUM FOR MICHAEL K. DEEVER
ASSISTANT TO THE PRESIDENT
DEPUTY CHIEF OF STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Endorsement for Radio America

You have asked for our views on a proposed letter from the President to Radio America, an incipient production of the American Studies Center. Radio America, a 501(c)(3) entity, will syndicate a radio commentary program featuring conservative commentators.

Our guidance in response to this request is informed by a confluence of two established White House policies. As you know we do not approve any use of the President's name, photograph, likeness, or signature in any manner that suggests or could be construed as an endorsement of a commercial product or enterprise. As a 501(c)(3) entity, Radio America is not a commercial endeavor, but it will compete in the marketplace with commercial programs for radio time. The President should avoid intruding into this marketplace by lending his name to the promotional efforts of one of the participants.

At the same time, the President generally does not endorse fundraising projects undertaken by particular 501(c)(3) organizations. This policy stems from the vast number of requests the President receives, and the inability of the White House to monitor the activities of particular charitable organizations. Such monitoring would be necessary to some degree if the President were to lend his name to the organization.

The foregoing does not mean that a letter of the sort requested by Radio America may not be sent. It does mean, however, that Radio America must understand that the letter cannot be used in advertising, fundraising, or other promotional activities. These restrictions may defeat what Radio America perceives as the entire purpose of the letter, but they are necessary to avoid unseemly exploitation of the Office of the Presidency.

With respect to the proposed text of the letter, "from Camp David" should be deleted at the end of the second paragraph. The radio address is not always delivered from Camp David. I also recommend deleting the last paragraph. Wishing Radio America "luck in attracting...support" is too close to a fundraising endorsement.

cc: Frank Donatelli

FFF:JGR:aea 7/12/84


bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 12, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Establishment of Interagency
Working Groups by Statute

Randy Davis and Steve Galebach of the Office of Policy Development have raised a concern about a provision in enrolled bill H.R. 3169, the Renewable Energy Industry Development Act of 1983. By memorandum dated July 10, I noted no legal objection to the bill, and submitted a memorandum to Darman for your signature, to like effect. Davis and Galebach, however, have asked if there are not legal problems with the new section 256(d) of the Energy Policy and Conservation Act, added by the bill. That section establishes an interagency working group of unspecified membership, chaired by the Secretary of Energy, to make recommendations on coordination of Federal programs affecting commerce in renewable energy products and technologies. It struck Davis and Galebach as strange for Congress to establish such a coordination mechanism for the executive branch, and to designate the chairman of the working group.

I saw and see no constitutional or other legal bar to such action by Congress. Congress has the power to establish the various Cabinet departments and executive agencies that carry out the work of the executive branch, and doubtless has the subsidiary power to establish interagency groups with membership drawn from those departments and agencies. Nor is it legally objectionable for Congress to designate the chairman of the working group by office (as opposed to by name). Doing so simply adds to the list of duties of the office, doubtless within congressional power.

A page of history is worth a volume of logic. Contrary to Davis's view, the establishment of interagency committees by Congress is hardly unprecedented. The Interagency Committee on Handicapped Research, for example, was established in 1978 pursuant to 29 U.S.C. § 761b, and continues to meet on a regular basis. The pertinent statute not only designated the chairman of the committee, but went beyond H.R. 3169 and designated the membership as well. To cite another example, 42 U.S.C. § 8456 created an interagency committee to study and report on the socioeconomic impact of increased coal

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production. Although interagency committees are more typically established by executive order, examples such as the foregoing could be multiplied almost at will.

I have attached a memorandum for your signature to Davis and Galebach, thanking them for their concern but assuring them that the provision in question is neither unprecedented nor legally objectionable.

cc: Peter J. Rusthoven


THE WHITE HOUSE

WASHINGTON

July 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Enrolled Bill H.R. 4997 -- Marine
Mammal Protection Act Appropriation
Authorizations and Miscellaneous
Amendments

Richard Darman has asked for comments on the above-referenced enrolled bill by close of business today. The bill authorizes appropriations for the marine mammal protection activities of the Departments of Commerce and the Interior and the Marine Mammal Commission (MMC).

The bill also contains several other, objectionable provisions. None of these are serious enough to counsel a veto, but both State and Justice have submitted signing statements addressed to separate items. The bill changes the procedures for selecting the members of the MMC, requiring that the President choose from a list unanimously agreed to by the Chairman of the CEQ, the Secretary of the Smithsonian, the Director of the NSF, and the Chairman of the National Academy of Sciences. This is an unfortunate restriction on the President's powers, but it is not unconstitutional. The President can insist on successive lists if no candidate meets his approval, and the requirement that the appointees secure the approval of the named individuals is simply a qualification for the office, not a post hoc veto of the President's choice.

Title II of the bill requires the Secretary of Commerce to establish a federally-funded National Coastal Resource Research and Development Institute. The Director of this Institute, however, is to be appointed by the Chancellor of the Oregon Board of Higher Education, and the policies of the Institute would be set by a Board of Governors composed of representatives of the governors of Oregon, Alaska, Washington, California, and Hawaii. Justice objects to this provision as potentially violative of the Appointments Clause, if the Institute -- established by Federal law -- is considered a Federal agency, and if the Board of Governors and Director -- not appointed by the President -- exercise direct authority to make grants and dispense Federal funds for specific projects. Justice thinks the constitutional problems can be avoided by a careful construction of the bill, treating the Institute as a state entity and retaining

authority in the Secretary of Commerce over any grants the Institute might make from Federal funds. Justice has submitted a signing statement calling attention to the problem and stating that the President has directed the Secretary of Commerce to consult with the Attorney General on implementation of the Act. Justice's interpretation is obviously not what Congress intended, but it would avoid a constitutional problem. Insisting on that interpretation at this point permits the President to preserve the constitutional point without vetoing the bill. I do not, however, foresee smooth sailing for this Institute.

An unrelated rider to Title II would provide relief to a parish in Louisiana that, unlike seven other similarly affected parishes, failed to appeal a FEMA determination within the established deadline. The provision would permit the delinquent parish to pursue its appeal.

Title III of the bill extends and amends the Fisherman's Protective Act, continuing and revising an insurance program to compensate owners and crews of vessels seized by foreign governments. With respect to this provision State recommends a signing statement stressing that claimants are not entitled to compensation if their vessels were seized because of violations of international agreements recognized by the United States. The proposed signing statement also quite properly characterizes a distinction in the statute between executive agreements and treaties as "legally unsound." As representatives of the executive we should resist any Congressional effort to denigrate the legal status of executive agreements as opposed to treaties. As State points out in the draft statement, the distinction in the bill has no practical effect, since claimants must first prove the seizure violated international law. If the seizure was pursuant to an executive agreement, it would not violate international law, so the provision rendering the program inapplicable to seizures pursuant to treaties adds nothing with respect to treaties not already applicable to executive agreements.

Title IV would expand exemptions from inspection requirements for medium-sized and small fishing vessels.

I agree with both State and Justice on the need for their respective signing statements. This bill was poorly drafted as the latest recess neared, and as a result it contains several flawed provisions. Those provisions will cause problems, particularly with respect to the legally bizarre Institute, but they do not justify disapproval. We should simply put the best possible face on the bill, which is what the State and Justice statements attempt to do.

THE WHITE HOUSE

WASHINGTON

July 13, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4997 -- Marine
Mammal Protection Act Appropriation
Authorizations and Miscellaneous
Amendments

Counsel's Office has reviewed the above-referenced enrolled bill. I agree with the comments of several affected departments and agencies that the bill contains problematic provisions, but also agree that these provisions do not justify disapproval of the entire bill. It seems likely that establishment and administration of the National Coastal Resources Research and Development Institute will be particularly difficult. I agree that the Justice Department signing statement should be issued, but would note that the Justice interpretation of the pertinent provisions -- necessary to preserve the Institute from constitutional infirmity -- is likely to come as something of a surprise to the draftsmen of the statute.

I also agree that the State Department statement should be issued. From the point of view of Presidential power, it is particularly important to reject in this context, as the State signing statement does, the distinction between executive agreements and treaties approved by the Senate. Obviously the State and Justice statements should be merged into a single statement.

FFF:JGR:aea 7/13/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 3075 -- Small
Business Computer Security and
Education Act of 1984

Richard Darman has asked for comments on the above-referenced enrolled bill by close of business today. This bill creates an advisory committee, known as the Small Business Computer Security and Education Advisory Council, to advise the Small Business Administration (SBA) on the problem of computer crime as it effects small businesses. The membership is to include specified Federal Government officials as well as individuals representing various segments of the computer industry. (Since the latter type of appointee will serve in a representative capacity, the Federal conflict of interest laws will not apply to them). The bill also requires the SBA Administrator to establish a program to provide small businesses with information on computer crime.

A separate section of the bill authorizes the SBA to cooperate with profit-making entities in providing services to small businesses. This expands the SBA's authority, which is currently limited to cooperating with non-profit entities. The bill requires the SBA to take steps to ensure that its cooperation is not viewed as an endorsement of the profit-making entity. The provisions strike me as curious since the actions of the SBA in acting as a "co-sponsor" (the statutory term) with the profit-making entity cannot help but constitute an endorsement of the entity.

OMB and SBA recommend approval; Commerce and Defense have no objection; Justice defers. 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

July 13, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3075 -- Small
Business Computer Security and
Education Act of 1984

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

FFF:JGR:aea 7/13/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 17, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 5713

I advised you yesterday that the above-referenced enrolled bill contained four unconstitutional legislative veto provisions, and that the Department of Justice would be submitting signing statement language addressed to the problem presented by these provisions. The Department has now submitted the attached draft language. I have reviewed the proposed signing statement, and recommend that it be issued. The language may seem strong, but, as the statement indicates, a full year has passed since the Supreme Court's definitive ruling on this issue and Congress should not be left in doubt as to our commitment to the principles enunciated in the Chadha opinion.

FFF:JGR:aea 7/17/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 17, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: H.R. 5713

By memorandum dated yesterday you advised Darman that the above-referenced enrolled bill contained several unconstitutional legislative vetoes. The memorandum noted that you had alerted the Department of Justice, which would provide signing statement language as soon as possible.

Justice has now provided the requested language, which Darman's office is anxiously awaiting (tomorrow is the last day for action on the bill). The language accompanies an enrolled bill report from Assistant Attorney General McConnell to OMB Director Stockman. Footnote 1 of this report notes that Justice only became aware of the bill and its unconstitutional provisions through the intervention of our office, and suggests revising the clearance procedures for appropriations bills to ensure that Justice is in the loop. In its enrolled bill report, Justice strongly urges that its proposed signing statement be issued.

Justice's draft signing statement notes that the Attorney General has advised the President that the four legislative veto provisions are unconstitutional. A strongly-worded concluding paragraph states that "the time has come, with more than a year having passed since the Supreme Court's decision in Chadha, to make clear that legislation containing legislative veto devices that comes to me for my approval or disapproval will be implemented in a manner consistent with the Chadha decision." I have no objection to the draft statement.


Attachment

THE WHITE HOUSE

WASHINGTON

July 17, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Proposed Press Release
on Border Drug Seizures

Richard Darman has asked for comments by 2:00 p.m. today on the above-referenced proposed press release. The proposed press release reviews the success of the National Narcotics Border Interdiction System (NNBIS) one year after its establishment, focusing on the record number and size of drug seizures in the past year. According to Admiral Murphy, DEA has cleared the statistics. I have no objection.

Attachment

THE WHITE HOUSE
WASHINGTON

July 17, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Press Release
on Border Drug Seizures

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

FFF:JGR:aea 7/17/84

cc: FFFielding/JGRoberts/Subj/chron

THE WHITE HOUSE

WASHINGTON

July 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Report on S. 2604: "The Senate
Re-Confirmation Act of 1984"

OMB has asked for our views by close of business today on a draft Department of Justice report on S. 2604, "The Senate Re-Confirmation Act of 1984." This bill would require reconfirmation of Cabinet officers and other high-level appointees at the end of a President's term, even if the President were re-elected. The Justice report opposes the bill on policy grounds as applied to officers appointed after its enactment, and on constitutional grounds as applied to officers incumbent at the time of its enactment.

At first blush there may appear to be constitutional as well as policy objections to even a prospective application of the reconfirmation requirement, but on reflection the Justice view that Congress can set terms of office for high-level officials -- which is all the reconfirmation requirement does -- seems sound. The constitutional problem arises with application of the requirement to incumbents when the bill is enacted, because then the bill operates to remove specific officials hitherto removable only by the President, in violation of the principles enunciated in Myers v. United States, 272 U.S. 52 (1926).

In remarks on the Senate floor, Senator Byrd argued that the bill was necessary to deal with problems such as Director Casey's allegedly less than candid testimony before Hill committees. The Justice report notes that there are a panoply of devices available to Congress for holding high-level officials accountable, and that the present bill would be an extreme over-reaction to a single incident. I have reviewed the draft report and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

July 23, 1984

MEMORANDUM FOR HILDA SCHREIBER
LEGISLATIVE REFERENCE DIVISION
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Report on S. 2604: "The Senate
Re-Confirmation Act of 1984"

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

FFF:JGR:aea 7/23/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Draft Proclamation: National Drunk
and Drugged Driving Awareness Week

The Office of Special Presidential Messages has asked for comments by close of business today on the above-referenced draft proclamation. The proclamation, authorized and requested by S.J. Res. 303, notes the work of the Presidential Commission on Drunk Driving, and the need for greater awareness of the problem of the drugged driver. The proclamation was submitted some time ago by the Department of Transportation, and has been approved by OMB.

The instant draft has been somewhat overtaken by events, and doubtless should be revised to reflect the President's signing on July 17, 1984 of H.R. 4616, the bill designed to encourage the States to adopt a 21-year drinking age.

Attachment

THE WHITE HOUSE

WASHINGTON

July 23, 1984

MEMORANDUM FOR ANNE HIGGINS
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR, WHITE HOUSE CORRESPONDENCE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Proclamation: National Drunk
and Drugged Driving Awareness Week

Counsel's Office has reviewed the above-referenced proposed proclamation. The proclamation should be rewritten to reflect the most significant development in the campaign against drunk driving, the President's signing of H.R. 4616, the bill designed to encourage the States to adopt a 21-year drinking age.

cc: Richard G. Darman

FFF:JGR:aea 7/23/84

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE
WASHINGTON

July 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Draft State Report on H.R. 5728

OMB has asked for our views by close of business July 24 on the above-referenced draft report. The draft report supports H.R. 5728, which would permit permanent resident aliens to accept employment at the American University in Beirut without fear that their absence from the United States would adversely affect their immigrant status. The report points out that situations may arise in which permanent resident aliens employed by the American University do not qualify for readmission because of reasons other than their absence from the United States, but that the bill appears to fulfill its stated purpose of ensuring that the mere absence from the United States to teach at the University does not disqualify a permanent resident alien from readmission.

I previously commented upon a draft Justice report on this same bill. This draft State report is consistent with the previously-cleared Justice report.

Attachment

THE WHITE HOUSE

WASHINGTON

July 23, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft State Report on H.R. 5728

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


FFF:JGR:aea 7/23/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 24, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Request for Permission to Reproduce
Armetale Plates from the Presidential
Yacht "Sequoia"

Sisi F. Brown, of Shingle House Appraisers, has written (twice) to request permission to reproduce the Seal of the President in connection with the replacement of two plates from the Presidential Yacht Sequoia. The plates were given by President Carter to Coast Guard Chief Petty Officer James Brisco during his service on the Sequoia, and were subsequently stolen from the home of Mr. Brisco's mother. Mrs. Brisco's insurance company has agreed to replace them. The Wilton Company of Columbia, Pennsylvania originally produced the plates and has agreed to reproduce them, but -- appropriately -- will not do so without permission to use the Seal.

At this morning's staff meeting you indicated that you had no objection to granting the request. The letter doing so, however, simply "won't write," and I must reluctantly recommend denying the request. The use of the Seal on the original plates was of course authorized, but that is not the question before us. None of the categories of permitted uses in Executive Order 11649 includes replacing lost items that properly bore the Seal but have no legitimate current use. It is true that you may authorize use of the Seal in writing, but under the Executive Order you may do so only "for exceptional historical, educational, or newsworthy purposes." I would not suppose that restoring Officer Brisco's private memorabilia collection is particularly historic, educational, or newsworthy. In sum, I can point to no provision in the Executive Order that would justify this use of the Seal. This is a harsh result but I think we must respect the limitations imposed by the Executive Order. It seems that Officer Brisco's plates are literally irreplaceable.

Attachment

July 24, 1984

Dear Ms. Brown:

You have requested permission to reproduce the Seal of the President in connection with the replacement of plates from the former Presidential Yacht Sequoia. The plates were given to a Coast Guard officer who served on the Sequoia, and were recently stolen.

I sincerely regret that I am unable to grant the requested permission. The permitted uses of the Seal of the President are limited by law. Title 18 of the United States Code, Section 713, generally prohibits use of the Seal except in accordance with regulations promulgated by the President. Those regulations are embodied in Executive Order 11649, as amended. I have enclosed a copy of the pertinent statute and Executive Order for your information.

You will notice that the categories of permitted uses do not include your contemplated use of the Seal. The reason the Seal was authorized to appear on the original plates -- "use by the President" -- is no longer applicable. As Counsel to the President I may grant permission in writing for other uses of the Seal, but only if those uses are "for exceptional historical, educational, or newsworthy purposes." Replacement of items in a private collection cannot be considered "historical, educational, or newsworthy."

I am very sorry that we cannot be more accommodating.

Sincerely,

Fred F. Fielding
Counsel to the President

Ms. Sisi F. Brown
President, Shingle House
Appraisers, Inc.
2020 Laguna Street
San Francisco, CA 94115

FFF:JGR:aea 7/24/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 25, 1984

MEMORANDUM FOR FRED F. FIELDING
RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Testimony of Joseph DiGenova Concerning
the Policies and Procedures of the D.C.
Parole Board

I have reviewed the above-referenced testimony -- actually a comprehensive report which I suspect will simply be submitted for the record -- and have advised OMB that our office has no objection. The report is, however, a stinging indictment of the policies, procedures, and indeed attitudes of the D.C. Parole Board, and I thought you should be aware of it. The gist of DiGenova's message -- amply supported by careful research -- is that the D.C. Parole Board is negligently releasing dangerous criminals who routinely commit new crimes while on inadequately supervised parole. DiGenova ultimately recommends that parole be abolished (as the Administration's crime package does for the Federal system), and also recommends a broad range of reforms if abolition is not adopted.

Attachment

THE WHITE HOUSE

WASHINGTON

July 25, 1984

MEMORANDUM FOR FRED F. FIELDING
RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Dozier Correspondence

As you know, we have received about sixty letters from Louisiana citizens, complaining about the commutation of Gilbert Dozier's sentence for extortion, bribery, and obstruction of justice. I have prepared the attached draft generic reply, based on press guidance provided by the Department of Justice and my review of the advice memorandum from the Acting Pardon Attorney. I recommend that you forward the draft to the Deputy Attorney General, for whatever additional Justice review she considers appropriate. A memorandum for this purpose is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

July 25, 1984

MEMORANDUM FOR CAROL E. DINKINS
DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Dozier Correspondence

The President has received about sixty letters (so far) complaining about the decision to commute the sentence of Gilbert L. Dozier. Attached for your review is a proposed response to those letters for my signature, largely based on Department of Justice press guidance.

Many thanks.

Attachment

FFF:JGR:aea 7/25/84

cc: FFFfieldng/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 25, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Seal Request

Your office referred to me a call from Mr. Aubrey Nicklas concerning the use of the Seal of the President. Mr. Nicklas, calling on behalf of Richfood, Inc., of Richmond, is seeking permission to use the Seal in "a patriotic, get-out-and-vote display" to be erected by Richfood at the upcoming convention of the Independent Grocers Association in North Carolina. He assured me that the display would have no commercial attributes.

I advised Mr. Nicklas that the permitted uses of the Seal of the President were limited by law, and that his contemplated use did not appear to be within any of the categories of permitted uses. I noted that the Great Seal of the United States was more appropriate for a patriotic display, so long as the use of the Great Seal did not convey a false impression of governmental sponsorship or approval. Mr. Nicklas thought the Great Seal would in fact meet his needs, and requested a reproduction of it, as well as an explanation of why he could not use the Seal of the President (so he could explain it to his superiors). An appropriate letter is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

July 25, 1984

Dear Mr. Nicklas:

Through a telephone conversation with John Roberts of my staff, you have inquired on behalf of Richfood, Inc., whether the Seal of the President may be used in a patriotic display at the upcoming convention of the Independent Grocers Association.

Title 18 of the United States Code, Section 713 generally prohibits use of the Seal of the President except in accordance with regulations promulgated by the President. These regulations are embodied in Executive Order 11649. A copy of the statute and implementing regulations is enclosed for your information. Your contemplated use of the Seal of the President does not appear to fall within any of the categories of permitted uses.

As Mr. Roberts advised you, it generally is more appropriate to use the Great Seal of the United States in connection with patriotic displays of the sort you envision for the convention. The Great Seal may be used for such purposes so long as it is not used "for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof." 18 U.S.C. § 713(a). For your convenience, I have enclosed a color reproduction of the Great Seal.

Thank you for raising this matter with us. If we may be of any further assistance, please do not hesitate to call.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Aubrey Nicklas
Richfood, Inc.
Post Office Box 26967
Richmond, VA 23261

Enclosures

FFF:JGR:aea 7/25/84

bcc: FFFielding/JGRoberts/Subj/Chron