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THE WHITE HOUSE

WASHINGTON

February 21, 1986

MEMORANDUM FOR FILE

FROM: JOHN G. ROBERTS

SUBJECT: David Rohr

On February 20 at 2:40 p.m. I provided Senator Danforth with the January 1984 summary and the December 1985 update of the background investigation into David Rohr, who is to be reappointed to the International Trade Commission. Danforth reviewed the material without comment.

THE WHITE HOUSE

WASHINGTON

February 21, 1986

MEMORANDUM FOR DIANNA G. HOLLAND

FROM:

JOHN G. ROBERTS 

SUBJECT:

Appointment of Betty Easley to the
Intergovernmental Advisory Council
on Education

I have reviewed the Personal Data Statement submitted by Betty Easley in connection with her prospective appointment to the Intergovernmental Advisory Council on Education. Pursuant to 20 U.S.C. § 3423(c)(1), the President appoints twenty members to this Council, as follows: six elected state and local officials, five representatives from public and private elementary and secondary education, five representatives from public and private postsecondary education, and four member of the public. In making appointments, the President is to consult with the constituent groups from which appointees are to be chosen, and select appointees with a view to "diversity of geographic areas and demographic characteristics."

Ms. Easley is a member of the Florida House of Representatives, and thus qualifies as a state and local official. Her PDS presents no problems, and I have no objection to proceeding with this appointment.

THE WHITE HOUSE

WASHINGTON

February 21, 1986

MEMORANDUM FOR RICHARD DAVIS

ASSOCIATE DIRECTOR
CABINET AFFAIRS

FROM:

JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT:

Disaster Declaration for California

Our office was asked to review a request from Governor George Deukmejian of California for Presidential declaration of a "major disaster," within the meaning of the Disaster Relief Act of 1974, Pub. L. 93-288.

Based on a review of the request and the related materials forwarded by the Federal Emergency Management Agency, including the supplementary letter of February 21, the Governor's request appears to comply with the statutory requirements for a disaster declaration. We also have no legal objection to the implementation materials prepared by FEMA in connection with this request.

cc: David L. Chew

THE WHITE HOUSE

WASHINGTON

February 21, 1986

MEMORANDUM FOR ROBERT E. TUTTLE
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING *orig. mem. to JGR*
COUNSEL TO THE PRESIDENT

SUBJECT: Peace Institute

As you know, nine nominees for the Peace Institute Board of Directors have been confirmed and appointed. In addition to those nine, we announced three of the four ex officio members on August 1. We have delayed announcing the ex officio member from the National Defense University, because the President of the University, an active duty career military officer, has declined to disclose his party affiliation. The Peace Institute statute requires that the affiliation of the ex officio members be included in satisfying the bipartisanship requirement.

I recommend that we now announce the representative from the University (either the President or, if he so designates, the Vice President) who will serve on the Board, even though we will not know his party affiliation. There is no danger of violating the bipartisanship requirement now, since we have five confirmed Republicans, four confirmed Democrats, two ex officio Democrats, and one ex officio Republican. Regardless of the affiliation of the N.D.U. representative, we will comply with the statutory requirement that no more than eight members be of the same political party.

Current plans call for filling the two remaining nomination vacancies with one Republican and one Democrat. If that comes to pass, we will still comply with the bipartisanship requirement regardless of the party affiliation of the N.D.U. representative. Problems may arise in the future, but I think it more important to comply with the statutory requirement that an N.D.U. representative serve on the Board, than to avoid appointing such a representative for fear of potential bipartisanship problems. The N.D.U. representative is entitled to serve on the Board in any event, whether or not the White House announces him. In addition, I sympathize with his position, and suspect many in Congress (despite the statutory language) will do so as well. The N.D.U. representative should be announced promptly, in order that he can participate in the Board meeting scheduled for February 25-26.

FFF/JGR:jmk FFFielding ✓ JGRoberts subject chron.

THE WHITE HOUSE

WASHINGTON

February 21, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Peace Institute

In the attached memorandum of December 27, 1985, I reviewed for you the problem with the remaining ex officio slot on the Peace Institute Board of Directors. You will recall that the statute specifies that the President or Vice President of the National Defense University serve on the Board, and that the party affiliation of all Board members, even the ex officio members, be considered in satisfying the bipartisanship requirement (no more than 8 of the 15 from the same party). Both the President and Vice President of N.D.U., however, are career military officers who, consistent with long-established military practice, decline to reveal party affiliation (if any).

In the memorandum, I recommended announcing the N.D.U. representative, as we have announced the three other ex officio members, despite the fact that we will not know his party affiliation. I noted we would not violate the bipartisanship requirement, regardless of the N.D.U. representative's affiliation, since we have a 6-6 split now. There are two remaining vacancies, to be filled by Morris Leibman (in clearance) and -- perhaps -- Wendy Borchardt (also in clearance, but with potentially serious problems). This would result in a 7-7 split, and still no problem with the N.D.U. representative.

You did not sign the memorandum for Tuttle accompanying my December 27 memorandum, but instead directed that it be held until the two remaining nominations are announced. The new development on this problem is that the first Board meeting is now scheduled for February 25-26. The two outstanding nominations will not be cleared by then, and the N.D.U. President is planning to attend the Board meeting, to comply with the statute, whether or not he is announced. I think he should be announced, as were the other three ex officio members. An updated memorandum for Tuttle for your signature is attached.

THE WHITE HOUSE

WASHINGTON

February 21, 1986

MEMORANDUM FOR CHARLES DONOVAN
DEPUTY DIRECTOR OF CORRESPONDENCE

FROM: RICHARD A. HAUSER Original signed by RAH,
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Contra Support Letters

Counsel's Office has reviewed the letters from the President to the National Endowment for the Preservation of Liberty and the Council for Inter-American Security. It is our view that the letters need to be edited slightly to avoid creating an impression of inappropriate linkage between the President and the public education and lobbying activities of these private sector organizations. The President cannot be made to appear to be using these independent organizations as lobbying arms of the Administration. The necessary edits appear on the attached copies of the drafts.

cc: Linas J. Kojelis

RAH/JGR:jmk
cc: RAHauser
JGRoberts
subject
chron.

THE WHITE HOUSE

WASHINGTON

February 21, 1986

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Contra Support Letters

Attached are the two commendation letters for Contra support groups that we have discussed. Our usual concerns with respect to such letters are: (1) the President cannot link himself so closely with the groups that their activities are viewed as being on behalf of, or at the direction of, the Administration; (2) since the groups often engage in lobbying activity we must be careful that our support does not amount to using the groups as a lobbying arm in contravention of anti-lobbying restrictions; and (3) since the groups are active in fundraising, some sensitivity to usual White House policy on endorsement of private fundraising must be shown.

Both letters, as submitted, raise serious appearance problems with respect to the first two points. In the drafts, the President urges continuation of specific public information campaigns for the explicit purpose of pressuring Congress. I have attempted to edit the letters to mitigate the appearance problems. The attached memorandum for your signature replies to Charles Donovan, who submitted the letters for our review, copy to Linas Kojelis, who sent the letters to Donovan.

THE WHITE HOUSE

WASHINGTON

February 22, 1986

3771636

TO: JOHN ROBERTS
Counsel's Office

RE: Congress on Biblical
Exposition/Anaheim
(MARCH 3)

This one would seem to me to put the President over the boundary of separation of church and state if he were to send a message.

Do you see a problem?

Thank you.

Claudia

CLAUDIA KORTE
Presidential Messages
18-OEOB/Ext. 2941

CK -

MANY PROBLEMS, IN ADDITION TO
THE ONE YOU NOTED. NO INDICATION
THAT THIS IS NON-PROFIT, AND THEY
ARE CHARGING ADMISSION.

JRC
2/28

THE WHITE HOUSE

WASHINGTON

February 24, 1986

MEMORANDUM FOR ANNE HIGGINS
SPECIAL ASSISTANT TO THE PRESIDENT
AND DIRECTOR OF CORRESPONDENCE

FROM: JOHN G. ROBERTS, JR.
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT Draft Proclamation: Hugo Lafayette
Black Day, February 27th, 1986

As requested in Phil Nicolaides' February 24, 1986 memorandum, this office has reviewed the referenced draft proclamation and has no legal objection to the President signing it.

THE WHITE HOUSE

WASHINGTON, D.C. 20503

February 24, 1986

MEMORANDUM FOR EUGENE R. SULLIVAN
GENERAL COUNSEL
DEPARTMENT OF THE AIR FORCE

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Air Force One

The attached correspondence concerning the Air Force One contracting competition is submitted to the Air Force for appropriate handling. The White House has adopted a policy of referring any communication with potential contractors to the Air Force, to avoid even the appearance of any inappropriate interference in the contractor selection process.

I have also enclosed a copy of my response to Mr. Timmons, advising him of the referral.

cc: W. Dennis Thomas
William Henkel

FFF:JGR:lrc

2/24/86

FFFielding
JGRoberts✓
Subject
Chron.

THE WHITE HOUSE

100-1010

February 24, 1986

Dear Bill:

This is in reply to your memoranda of January 28 to Dennis Thomas and William Henkel, concerning the position of your client, The Boeing Company, on the Air Force One contractor selection competition.

In order to avoid even the appearance of any inappropriate interference in the contractor selection process, we have adopted a policy of referring any communication with a potential contractor directly to the Air Force, which is handling the contractor competition. I have, accordingly, forwarded your memoranda to the Air Force.

I trust you will appreciate the reasons for this policy.

With best wishes,

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Mr. William E. Timmons
Chairman, Executive Committee
Timmons and Company, Incorporated
1850 K Street, N.W.
Washington, D. C. 20006

cc: W. Dennis Thomas
William Henkel

FFF:JGR:lrc

2/24/86

FFFfielding

JGRoberts ✓

Subject

Chron.

THE WHITE HOUSE

WASHINGTON

February 24, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS, JR.

SUBJECT: Air Force One

Bill Timmons, on behalf of his client Boeing, has written Dennis Thomas to explain the advantages of the Boeing bid for the new Air Force One over the rival bid of McDonnell-Douglas. Thomas has asked your advice on a response.

Thomas's January 15 memorandum for the Air Force One Senior Steering Committee, which you reviewed and edited, provides as follows:

According to Federal Acquisition Regulations, all communication with potential contractors are to be channeled through Air Force contract offices. In order to avoid even the appearance of any improper interference with the contractor selection process, all communications and questions regarding the process or any contractor should be referred to the Air Force through the Counsel's office.

Pursuant to this directive, the letter from Timmons should be sent to the Air Force by you. A memorandum for this purpose is attached, as is a reply to Timmons advising him of the referral. Thomas and Henkel (who received an identical incoming) are copied on both items.

Attachment

THE WHITE HOUSE

WASHINGTON

February 24, 1986

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE REFERENCE DIVISION

FROM: JOHN G. ROBERTS, JR.
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: DOJ Testimony on H.R. 1407 the
"Grand Jury Reform Act of 1985"

As requested, this office has reviewed the above-referenced testimony and has no legal objection to it.

THE WHITE HOUSE

February 24, 1986

MEMORANDUM FOR ALFRED H. KINGON
CABINET SECRETARY AND ASSISTANT
TO THE PRESIDENT

Orig. signed by FFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Report to the President on Textile Imports

Counsel's Office has reviewed the above-referenced proposed report, and has no objection to it going forward to the President.

cc: David Chew

FFF:JGR:lrc

2/24/86

FFFielding

JGRoberts ✓

Subject

Chron.

THE WHITE HOUSE

WASHINGTON

February 24, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS, JR.

SUBJECT: Report to the President on Textile Imports

David Chew has asked that comments be sent directly to Al Kingon by close of business today on the above-referenced proposed report to the President. When the President vetoed the Textile and Apparel Trade Enforcement Act of 1985, he directed Secretary Baker to investigate the levels of textile imports to determine if those levels exceeded limits agreed upon in international agreements. In the proposed report, Baker concludes that overshipment of existing quotas constituted only 0.1% of total textile imports during 1980-1985.

The report proceeds to discuss several enforcement problems confronted by Customs, such as fraud in describing products, fiber substitution, monitoring difficulties due to wide variances in the terms of bilateral agreements, a difficult-to-apply cottage industry exception to quotas, and lack of full cooperation from host countries in conducting overseas investigations. The report recommends expediting the "call" process, striving to standardize bilateral agreements, and imposing import controls more promptly to avoid overshipments occurring before quotas can be imposed. With respect to enforcement, the report calls for maintaining the Customs Commercial Fraud Enforcement Program at its current level, establishing textile fraud cases as a high priority for prosecution, reviewing existing legislation and the troublesome cottage industry exemption, expanding the Multi-Fiber Arrangement to cover currently non-covered fabrics often used in substitution (silk, linen, ramie), and including investigative cooperation clauses in any future bilateral agreements.

I have no objection to this report going forward to the President.

THE WHITE HOUSE
WASHINGTON

February 24, 1986

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS, JR.

SUBJECT: Seal Question

Chris Hicks called to request that our office look into the sale of a cap featuring the Great Seal and "The White House" by John Roth, an NBC cameraman. Billy Dale in the Press Office can provide further details to whomever this problem is assigned.

THE WHITE HOUSE

WASHINGTON

February 24, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY AND DEPUTY ASSISTANT
TO THE PRESIDENT

FROM: JOHN G. ROBERTS, JR.
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Executive Order Entitled "Revocation
of Various Executive Orders"

Counsel's Office has reviewed the above-referenced proposed Executive Order. In the few hours provided for our review, it has of course not been possible for us to review each of the 386 Executive Orders slated for "elimination," so we cannot offer an independent opinion on whether or not such elimination would affect current legal rights or authorities.


The stated purpose of this Executive Order is to eliminate obsolete or outdated Executive Orders from the codification of Presidential orders. An Executive Order is not necessary to accomplish this objective. Indeed, many - perhaps most - of the Orders that will be revoked by this Order are already excluded from the codification of Presidential orders. Those orders creating an emergency board to investigate a railroad labor dispute, for example - about half the subject orders - are not reproduced in the codification. Other orders on the list that are temporary or have otherwise been superseded (e.g., 11434, 11436) are also not reproduced in the codification. In light of the foregoing there seems to be little reason for this exercise. Portraying it as a significant management improvement would expose the Administration to valid charges of grandstanding.

THE WHITE HOUSE

WASHINGTON

February 25, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY AND DEPUTY ASSISTANT
TO THE PRESIDENT

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 4061: Federal Employees
Benefits Improvement Act of 1986
and Signing Statement

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

THE WHITE HOUSE

WASHINGTON

February 25, 1986

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

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Remarks: President
Biya of Cameroon

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

cc: David L. Chew

THE WHITE HOUSE

WASHINGTON

February 25, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY AND DEPUTY ASSISTANT
TO THE PRESIDENT

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Posthumous Promotion for Michael Smith

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

THE WHITE HOUSE

WASHINGTON

February 25, 1986

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

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Tapings: 1) Coalition for SDI
2) USC Tribute to Virginia Ramo
3) Tribute to King Hassan of Morocco

Counsel's Office has reviewed the above-referenced proposed tapings, and finds no legal objection to the U.S.C. and the King Hassan tapings. We also have no legal objection to the S.D.I. taping, but would emphasize that those dealing with the Coalition for S.D.I. should stress that the taping may not be re-used in any form in future fundraising appeals.

cc: David L. Chew

THE WHITE HOUSE

WASHINGTON

February 26, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY AND DEPUTY ASSISTANT
TO THE PRESIDENT

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order Entitled
"Nuclear Cooperation with Euratom"
and Message to Congress

Counsel's Office has reviewed the proposed Executive Order and message to Congress on nuclear cooperation with Euratom. We have no legal objection to the proposed Order. In line 16, page 2, of the message to Congress, "out" should be "our."

THE WHITE HOUSE

WASHINGTON

February 26, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY AND DEPUTY ASSISTANT
TO THE PRESIDENT

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Retirement Letter for Herb Ellingwood

Counsel's Office has reviewed the draft letter to Herb Ellingwood. In the first sentence of the second paragraph, it is misleading to refer to the MSPB as "the successor agency to the United States Civil Service Commission." The MSPB is a successor agency to the Civil Service Commission, but in fact most of the responsibilities of that Commission were transferred to the Office of Personnel Management. I would delete "successor agency to the United States Civil Service Commission" and substitute "Board." I would also delete "a model judicial agency --" in the last sentence of the second paragraph. The Board has quasi-judicial responsibilities, but it has executive responsibilities as well, and should not be described as a "judicial agency."

THE WHITE HOUSE

WASHINGTON

February 26, 1986

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

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Remarks: Drop-By Briefing
for Columnists and Commentators

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

cc: David L. Chew

THE WHITE HOUSE

WASHINGTON

February 26, 1986

MEMORANDUM FOR CHARLES DONOVAN

DEPUTY DIRECTOR OF CORRESPONDENCE

FROM:

FRED F. FIELDING

Orig. signed by FFF

COUNSEL TO THE PRESIDENT

SUBJECT:

Money Mail Following Shuttle Disaster

You have asked for guidance on handling the numerous donations the White House has been receiving in the wake of the Space Shuttle disaster. After discussion with the Office of the General Counsel at NASA, it is our view that donations sent to the White House because of the Shuttle disaster should be forwarded to NASA for handling. NASA will accept unconditional donations pursuant to its current statutory authority. Although NASA does not at present have authority to accept conditional gifts -- and many of the donations in question fall into this category -- legislation has been introduced to grant NASA such authority for this particular situation. Accordingly, NASA has established a special escrow account for receipt of conditional gifts, pending passage of the legislation. If the legislation does not pass, the conditional gifts will be returned.

You should forward donations sent to the White House to Richard J. Powell, Director of Financial Management Division, Code BF, NASA, 400 Maryland Avenue, S.W., Washington, D.C. 20546. NASA will correspond directly with the donor to acknowledge receipt of the donation, and process it as appropriate in light of the foregoing.

FFF/JGR:jmk

cc: FFFielding

✓JGRoberts

subject

chron.

THE WHITE HOUSE

WASHINGTON

February 26, 1986

MEMORANDUM FOR JOHN L. O'BRIEN
GENERAL COUNSEL
NASA

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Money Mail Following Shuttle Disaster

The White House has been receiving numerous donations in the wake of the Space Shuttle disaster. A member of my staff discussed the appropriate handling of such donations with Heler Kupperman of your staff, and learned of the manner in which similar donations sent directly to NASA are being handled. I agree with Ms. Kupperman's recommendation that donations received at the White House be sent to NASA for processing. Attached is a copy of the memorandum I have sent to the White House Office of Correspondence, directing that office to send Space Shuttle donations it receives to the appropriate office at NASA.

Thank you for your assistance.

Attachment

FFF/JGR:jmk
cc: FFFielding
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THE WHITE HOUSE

WASHINGTON

February 26, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Money Mail Following Shuttle Disaster

The Office of Correspondence has asked for guidance on handling the dozens of checks they have been receiving in the wake of the Shuttle disaster. NASA has statutory authority to accept unconditional gifts, 42 U.S.C. § 2473(c)(4), and has been accepting donations that are not explicitly restricted to the shuttle program, depositing the donation into the fund already established for gifts.

NASA does not currently have authority to accept conditional gifts, and many of the checks both it and the White House have been receiving are earmarked for the shuttle program. Legislation has been introduced in both the Senate and the House, with impressive sponsorship, to permit NASA to accept conditional gifts for this purpose only. The legislation provides that if Congress does not authorize another shuttle, the funds would go to the unconditional gift account. In light of this legislation, NASA has set up an escrow account, for deposit of conditional gifts. If the legislation passes, the conditional gifts would be accepted pursuant to the terms of the bill. If the bill fails, NASA plans to return all the conditional gifts.

I discussed this question with the NASA General Counsel's office. It is the view of that office that checks received at the White House should be forwarded to NASA. NASA will handle the forwarded letters as it handles checks it receives directly, sending an appropriate response and depositing the funds either in the unconditional gift account or the special escrow account. I have no objection to this proposal, which can be implemented by your sending the attached memoranda to Charles Donovan and Jack O'Brien.

THE WHITE HOUSE

WASHINGTON

February 26, 1980

MEMORANDUM FOR RONALD F. LEHMAN, II
SPECIAL ASSISTANT TO THE PRESIDENT
AND SENIOR DIRECTOR

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Fact Sheet for the President's Peace
and National Security Address

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

cc: David L. Chew