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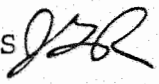
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Oaths

THE WHITE HOUSE
WASHINGTON

November 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Request to Swear In the President For His Second Term

Emily Brown, a Justice of the Peace from Pembroke, Massachusetts, has volunteered to administer the oath of office to the President at his second inauguration. Ms. Brown suggests letting an average citizen administer the oath would be a "grand gesture." No doubt, but I suspect the President would just as soon have the oath administered by the Chief Justice, pursuant to established custom. There is no legal requirement that the Chief Justice administer the oath. Indeed, there is no need for anyone to administer the oath at all. The Constitution merely requires that the President-elect take the prescribed oath before entering on the execution of his office. Art. II, § 1, cl. 7. Theoretically the President could take the oath by himself.

In any event, it does not appear that a Massachusetts justice of the peace would be authorized to administer the oath outside of Massachusetts. Under 5 U.S.C. § 2903(c), an oath required under the laws of the United States may be administered by the Vice President or "an individual authorized by local law to administer oaths in the State, District, or territory or possession of the United States where the oath is administered." I think it sufficient in the reply to Ms. Brown, however, to note that the President will adhere to tradition and have the Chief Justice administer the oath.

Attachment

THE WHITE HOUSE

WASHINGTON

November 13, 1984

Dear Ms. Brown:

Thank you for your telegram of November 5, 1984 to the President. In that telegram you volunteered to administer the oath of office to the President at his second inaugural.

Please be advised that the President plans to adhere to the tradition of having the oath of office administered by the Chief Justice of the Supreme Court of the United States. I trust you will appreciate the reasons for this.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Ms. Emily Brown
Justice of the Peace
218 Pleasant Street
Pembroke, MA 02358

FFF:JGR:aea 11/13/84
bcc: FFFielding/JGRoberts/Subj/Chron

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WASHINGTON

November 13, 1984

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Thank you for your telegram of November 5, 1984 to the President. In that telegram you volunteered to administer the oath of office to the President at his second inaugural.

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WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

FE001-03

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Emily Brown

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Would like to swear the President in for second term

ROUTE TO: Office/Agency (Staff Name)	ACTION		DISPOSITION		
	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CW Holland</u>	ORIGINATOR	<u>84/11/09</u>			<u>1 1</u>
<u>CWAT18</u>		<u>84/11/09</u>		<u>S</u>	<u>84/11/19</u>
		<u>1 1</u>			<u>1 1</u>
		<u>1 1</u>			<u>1 1</u>
		<u>1 1</u>			<u>1 1</u>

- ACTION CODES:**
- A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure

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

- DISPOSITION CODES:**
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

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

1-015122A310 11/05/84

ICS IPMWGWI WSH

03211 11-05 0513P EDT

FMS WHITE HOUSE DC 20500

4-0452649310 11/05/84

ICS IPMMTZZ DSP

6178265662 TDMT PEMBROKE MA 35 11-05 0513P EST

FMS PRESIDENT REAGAN

WHITE HOUSE

WASHINGTON DC 20500

4 NOV 5 P 6:02
4 NOV 5 P 6:02

270205Cu

CONFIDENT OF REELECTION. WOULD LIKE TO SWEAR YOU IN AT THE
INAUGURATION. GRAND GESTURE TO LET AN AVERAGE CITIZEN PARTICIPATE IN
JOYOUS HISTORICAL CELEBRATION.

EMILY BROWN
JUSTICE OF THE PEACE
218 PLEASANT ST
PEMBROKE MA 02358
6178265662

1714 EST

1718 EST

28, 1896) because of the definition of "military department" in section 102. The title of the Secretary of War was changed to Secretary of the Army by the Act of July 26, 1947, ch. 343, § 205, 61 Stat. 501. "Secretary of the Air Force" is included on authority of the Act of July 26, 1947, ch. 343, § 207(a), (f), 61 Stat. 502. The words "Secretary of Commerce" are substituted for "Secretary of Commerce and Labor" on authority of the Act of Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736. The words "under the departmental seal" are substituted for "and the departmental seal affixed thereto". The words "any laws to the contrary notwithstanding" are omitted as unnecessary. The last sentence of section 14 of the Act of Mar. 3, 1875, is omitted as executed.

In subsection (c), the words "and shall be" and "any laws to the contrary notwithstanding" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1975 Amendment. Subsec. (b). Pub.L. 94-183 deleted "the Postmaster General," following "under the control of".

Legislative History. For legislative history and purpose of Pub.L. 94-183, see 1975 U.S.Code Cong. and Adm.News, p. 2141.

Notes of Decisions

Evidence 3
Signature of President 2
Term of commission 1

1. Term of commission

A commission for a term of years gives to the officer no greater legal right to the office than though it ran "during the pleasure of the President". *Howard v. U. S.*, 1887, 22 Ct.Cl. 305.

Where a new commission is accepted it supersedes the old one; and the four years, prescribed by law as the official term of the appointee, must commence to run from its date, but the bonds taken under the first commission cease to have effect when the commission terminates. 1830, 2 Op.Atty.Gen. 333.

Where an Act of Congress gives the President power to appoint an officer, without defining the tenure by which the office is to be held, a commission may legally issue to the officer to hold the office during the pleasure of the President. 1818, 1 Op.Atty.Gen. 212.

2. Signature of President

A commission should show upon its face that it is the commission of the President but his actual signature is not necessary. 1898, 22 Op.Atty.Gen. 82.

3. Evidence

Proof that an individual has acted notoriously as a public officer is prima facie evidence of his character, without producing his commission or appointment. *Jacob v. U. S.*, C.C.Va.1821, Fed. Cas.No.7,157.

§ 2903. Oath; authority to administer

(a) The oath of office required by section 3331 of this title may be administered by an individual authorized by the laws of the United States or local law to administer oaths in the State, District, or territory or possession of the United States where the oath is administered.

(b) An employee of an Executive agency designated in writing by the head of the Executive agency, or the Secretary of a military department with respect to an employee of his department, may administer—

(1) the oath of office required by section 3331 of this title, incident to entrance into the executive branch; or

(2) any other oath required by law in connection with employment in the executive branch.

(c) An oath authorized or required under the laws of the United States may be administered by—

(1) the Vice President; or

(2) an individual authorized by local law to administer oaths in the State, District, or territory or possession of the United States where the oath is administered.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 411.

Historical and Revision Notes

Derivation:	United States Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 18	R.S. § 1758.
(b)	5 U.S.C. 16a(a) (less 1st 9 words after last comma)	June 26, 1943, ch. 145, § 206 (less 1st 9 words after last comma), 57 Stat. 196.
(c)	5 U.S.C. 16a(b)	Sept. 30, 1961, Pub.L. 87-322 (par. under "General Provision"), 75 Stat. 743.
	5 U.S.C. 92a	July 8, 1926, ch. 752, 44 Stat. 830.

Explanatory Notes

In subsection (b), the words "On and after June 26, 1943" are omitted as executed, and the word "officer" is omitted as included in "employee". The words "Executive agency" are coextensive with and substituted for "executive departments or independent establishments, including any agency the majority of the stock of which is owned by the Government of the United States" because of the definition of "Executive agency" in section 105. The words "or the Secretary of a military department with respect to an employee of his department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law or this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National

Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301. The words "of the Federal Government" and "and to have the same force and effect as oaths administered by officers having seals" are omitted as unnecessary.

In subsection (c), the word "Constitution" is omitted because "laws", as used in this title, encompasses the Constitution. In subsection (c)(1), the words "of the United States" are omitted as unnecessary. In subsection (c)(2), the words "an individual authorized by local law to administer oaths in the State, District, or territory, or possession of the United States where the oath is administered" are coextensive with and substituted for "notaries public duly appointed in any State, District, or Territory of the United States, by clerks and prothonotaries of courts of record of any such State, District, or Territory, by the deputies of such clerks and prothonotaries, and by all magistrates authorized by the laws of or pertaining to any such State, District, or Territory to administer oaths".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Postal Service, oath of office, see section 1011 of Title 39, Postal Service.

Library References

United States Ⓒ35.

C.J.S. United States §§ 35, 37, 62 to 64.

West's Federal Forms

Jurat, see § 1695 and Comment thereunder.

Notes of Decisions

1. **Employees of other agencies** individuals in federal agencies other than their own. 1958, 37 Comp.Gen. 649.
Employees who are designated to administer oaths may administer oaths to

§ 2904. Oath; administered without fees

An employee of an Executive agency who is authorized to administer the oath of office required by section 3331 of this title, or any other oath required by law in connection with employment in the executive branch, may not charge or receive a fee or pay for administering the oath.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 412.

Historical and Revision Notes

Derivation:	United States Code	Revised Statutes and Statutes at Large
	5 U.S.C. 16a(a) (1st 9 words after last comma)	June 26, 1943, ch. 145, § 206 (1st 9 words after last comma), 57 Stat. 196. Sept. 30, 1961, Pub.L. 87-332 (so much of par. under "General Provision" as inserted "(a)"), 75 Stat. 743.
	5 U.S.C. 20	Aug. 29, 1890, ch. 820, § 1 (2d sentence under "Fourth Auditor's Office"), 26 Stat. 371.

Explanatory Notes

The section is restated to combine former sections 16a(a) (1st 9 words after last comma) and 20. The prohibition is restated in positive form. The words "officer" and "clerk" are omitted as included in "employee". Reference to oaths taken on promotion is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 2905. Oath; renewal

(a) An employee of an Executive agency or an individual employed by the government of the District of Columbia who, on original appointment, subscribed to the oath of office required by section 3331 of this title is not required to renew the oath because of a change in status so long as his service is continuous in the agency in which he is employed, unless, in the opinion of the head of the Executive agency, the Secretary of a military department with respect to an employee of his department, or the Commissioners of the District of Columbia, the public interest so requires.

(b) An individual who, on appointment as an employee of a House of Congress, subscribed to the oath of office required by section 3331 of this title is not required to renew the oath so long as his service as an employee of that House of Congress is continuous.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 412.