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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

Withdrawer

File Folder CHRON FILE (10/01/1983 - 10/07/1983)

IGP 8/30/2005

Box Number

FOIA

F05-139/01

COOK

34IGP

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO FIELDING RE GARRETT KINARD	1	10/3/1983	B6	593
2	LETTER	FROM FIELDING RE GARRETT KINARD	1	10/3/1983	B6	594
3	MEMO	ROBERTS TO STANLEY MORRIS FUGATIVE FATHER INVESTIGATION	1	10/3/1983	B6	595
4	CASEFILE	FUGITIVE FATHER FEDERAL INVESTIGATION 173956	1	ND	B6	596
5	MEMO	ROBERTS TO HAUSER RE WESTON ADAMS (PARTIAL)	1	10/4/1983	B6	597

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

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B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE

WASHINGTON

October 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Taping: BBC Documentary Film
Tribute to John Wayne

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by noon today. The remarks praise John Wayne, portraying him as the epitome of American values. I have no objection to the substance of the remarks.

I am, however, somewhat troubled by the absence of a consistent policy governing our willingness to permit the President to participate in these private, commercial tributes. I did not work on approval of this particular event, but I think we are seeing evidence of what we often say will happen when we deny requests for Presidential endorsements of charitable efforts: once you do one it becomes impossible to turn down countless others. I know there's only one John Wayne - but there's only one Bob Hope, James Bond, Bing Crosby, etc., etc., etc.

Attachment

THE WHITE HOUSE

WASHINGTON

October 3, 1983

MEMORANDUM FOR BEN ELLIOTT
PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Taping: BBC Documentary Film
Tribute to John Wayne

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 10/3/83

bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

October 3, 1983

MEMORANDUM FOR JAMES K. HALL
CHIEF, FOI/PA SECTION
FEDERAL BUREAU OF INVESTIGATION

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: FOIA Request of Guy E. Sandler
Regarding Guy E. Sandler
FBI FOI/PA # 235,346
Document 100-442415-11

By memorandum dated September 30, 1983, you asked for our views on the release of the above-referenced document in response to the FOIA request of Guy E. Sandler. Our office has no objection to releasing the document as shown on Enclosure A, with the redactions proposed by the FBI.

FFF:JGR:aea 10/3/83

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

October 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: FOIA Request of Guy E. Sandler
Regarding Guy E. Sandler

The FBI has referred for our review a document from their files responsive to the above-referenced FOIA request. The FBI proposes to release the document, with the classified portions blacked out and the appropriate exemption - b(1) - claimed. The remainder of the document is largely meaningless. I have no objection to this proposed course of action, and recommend that you sign the attached memorandum.

Attachment

THE WHITE HOUSE

WASHINGTON

October 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: S.J. Res. 142 Designating Week of
October 3-9, 1983, as "National
Productivity Improvement Week"

Richard Darman has asked for comments as soon as possible on the above-referenced enrolled resolution. The resolution, passed by voice vote, designates this week as National Productivity Improvement Week. OMB and Commerce recommend approval. I have reviewed the memorandum for the President from OMB Assistant Director for Legislative Reference James M. Frey, and the resolution itself, and have no objections. We have already reviewed and approved the proclamation requested by this resolution. The resolution should be signed as soon as possible so that the celebrations to mark the week may begin across the land.

Attachment

THE WHITE HOUSE

WASHINGTON

October 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: DOJ Proposed Report on S. 383, a Bill
to Request the Chief Justice to Give an
Annual Address to Congress on the State
of the Judiciary

Jim Murr has asked for our views by October 26 on the above-referenced proposed report. S. 383 would amend Title 28 to request the Chief Justice to deliver an annual address to Congress on the state of the judiciary. In a display of legislative masochism, the Senate passed an identical bill in 1980.

The Justice report neither endorses nor opposes the bill, simply noting pros and cons. The report recognizes that judicial reform proposals, even noncontroversial ones, have a difficult time in Congress and that an annual address might help such proposals gain consideration. On the other hand, the report tactfully notes that if the annual address were ill-attended, the bill could have precisely the opposite effect. I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

October 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: DOJ Proposed Report on S.J. Res. 39,
a Bill which Proposes a Constitutional
Amendment to Establish a Ten-Year Term
of Office for Federal Judges

James Murr of OMB has asked for our views on the above-referenced proposed report. S.J. Res. 39 proposes a constitutional amendment to limit the term of office of federal judges to ten years, after which their names would be submitted to the Senate for reconfirmation to an additional term. The Justice Department's proposed report opposes such an amendment, noting that life tenure is critical to the independence of the judiciary and therefore to our system of separated powers. The Justice report also takes exception to the renomination process, which does not include any participation by the Executive.

The Justice report is similar to other reports it has filed in recent years and I do not propose to object to it. I would point out, however, that there is much to be said for changing life tenure to a term of years, without possibility of reappointment. The Framers adopted life tenure at a time when people simply did not live as long as they do now. A judge insulated from the normal currents of life for twenty-five or thirty years was a rarity then, but is becoming commonplace today. Setting a term of, say, fifteen years would ensure that federal judges would not lose all touch with reality through decades of ivory tower existence. It would also provide a more regular and greater degree of turnover among the judges. Both developments would, in my view, be healthy ones. Denying reappointment would eliminate any significant threat to judicial independence.

Furthermore, the Justice report is, on a theoretical level, somewhat disingenuous. The frequent citations to statements in The Federalist and in Judge Story's writings on the need for life tenure ignore the fact that those statements were predicated on a view of the judge's role that many if not most sitting federal judges would find unacceptably circumscribed. It is certainly appropriate to protect judges from popular pressure if their task is limited to discerning and applying the intent of the Framers or

legislators. To the extent the judicial role is unabashedly viewed as one in which judges do more than simply figure out what the Framers intended, the case for insulating the judges from political accountability weakens. The federal judiciary today benefits from an insulation from political pressure even as it usurps the roles of the political branches. At present, however, it probably makes more sense to seek to return the judges to their proper role than to revoke the protections defensible only if they are in that role.

WITHDRAWAL SHEET

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DOC Document Type

No of Doc Date Restric-
pages tions

NO Document Description

1 MEMO

1 10/3/1983 B6

593

ROBERTS TO FIELDING RE GARRETT KINARD

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<i>NO Document Description</i>	<i>pages</i>		<i>tions</i>	
2 LETTER	1	10/3/1983	B6	594
FROM FIELDING RE GARRETT KINARD				

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DOC Document Type

No of Doc Date Restriction
pages *tions*

NO Document Description

3 MEMO

1 10/3/1983 B6

595

ROBERTS TO STANLEY MORRIS FUGATIVE
FATHER INVESTIGATION

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<i>NO Document Description</i>	<i>pages</i>		<i>tions</i>	
4 CASEFILE	1	ND	B6	596
FUGITIVE FATHER FEDERAL INVESTIGATION				
173956				

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THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Draft Proclamation/National Schoolbus
Safety Week, 1983

Dodie Livingston has asked for our views as soon as possible on the attached draft proclamation. The proclamation, requested and authorized by H.J. Res. 137, designates this week as National Schoolbus Safety Week. It was drafted at Transportation and approved by OMB. The proclamation avoids the more controversial aspects of busing, and I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR DODIE LIVINGSTON
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR, SPECIAL PRESIDENTIAL MESSAGES

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Proclamation/National Schoolbus
Safety Week, 1983

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

FFF:JGR:aea 10/4/83

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Statement of Frank V. Monastero on
Eradication of Marijuana with Paraquat

DEA Assistant Administrator for Operations Monastero proposes to deliver the attached testimony on October 5 before the House Subcommittee on Crime. The testimony begins by noting the dramatic increase in domestic marijuana cultivation, and the difficulties associated with eradicating marijuana plots. The testimony reviews the assistance provided to the states by DEA, including supplying training, airplanes, and scientific expertise. The most controversial aspect of the testimony concerns the use of paraquat in the United States. The testimony notes that paraquat is a registered weed and grass killer used in large amounts on many common crops. The testimony reviews the extensive research and analysis conducted by DEA on the use of paraquat, and concludes that aerial spraying is the most effective means of marijuana eradication. The use of paraquat by DEA in Georgia and Kentucky last August is discussed, and the testimony concludes by noting that although DEA is temporarily restrained by judicial decree from further use of paraquat, the agency's aggressive eradication efforts, in cooperation with the states, will continue.

I have no objection to the testimony. It reviews the evidence supporting the use of paraquat in marijuana eradication efforts, and it is important that Congress be made aware of this evidence in the face of erroneous judicial decisions barring the use of paraquat.

Attachment

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Frank V. Monastero on
Eradication of Marijuana with Paraquat

Counsel's Office has reviewed the above-referenced testimony, and finds no objection to it from a legal perspective. On page 6, line 13, we assume that "almost" should be "also."

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: U.N. Delegation and the
Incompatibility Clause

Dianna has relayed to me your concern over the nomination of Congressmen to serve on the U.S. delegation to the U.N. General Assembly. The President is authorized by 22 U.S.C. § 287(c) to designate, by and with the advice and consent of the Senate, up to five representatives and an indeterminate number of alternates to attend sessions of the General Assembly of the United Nations. No provision is made for appointment of members of Congress, but since 1950 every United States delegation appointed pursuant to 22 U.S.C. § 287(c) has included two Congressmen, one from each party, chosen in alternating years from the Senate and House. An information sheet prepared by the State Department (attached) notes that the Congressmen are appointed as representatives, not alternates, "and serve as full regular members of the 'U.S. Delegation', representing the Government and not as Congressional advisers per se." On September 20, we announced our intention to nominate two Congressmen as representatives.

The Incompatibility Clause, Article I, § 6, cl. 2, provides in part that "no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office." The critical question is whether a Representative of the United States to the U.N. General Assembly is an officer of the United States. The question would seem to answer itself. The above-quoted language from the State Department information sheet also describes the Congressional members as "full regular members" of the delegation, so it seems difficult to argue that they serve in only a ceremonial or advisory role. I have no desire to rock this particular boat, but I see no honest way to defend the practice of appointing Congressmen to serve as our representatives to the General Assembly. In the future, if we are unwilling to depart from the 33-year practice, we should at least have the State Department redefine its view of the Congressional members, limiting their role to ceremonial and advisory matters.

Attachment

INFO SHEET PREPARED BY STATE

FORMING A DELEGATION TO THE UN GENERAL ASSEMBLY

** Convenes in mid-September*

UNGA Rules of Procedure limit delegations of Member States to five Representatives and five Alternate Representatives. There is no limitation on the number of advisers or staff that can be accredited. Although there is no requirement that we accredit the full complement of ten, this has been the custom for virtually all of the regular UNGA sessions. Special or resumed sessions have often had fewer than ten.

In practice, in the recent past, the ten Representatives and Alternates have included all five Ambassadorial level officials at USUN, headed by the U.S. Permanent Representative to the UN. (The Secretary of State is always listed as Chairman of Delegation ex officio for the period he is present at the General Assembly; however, he need not be counted among those ten.) The remaining five Representatives and Alternate Representatives include three Public Members and two Congressional members. This mix of Congressional and public members is not written into the UN Participation Act or other statutes but first appeared in the U.S. Delegation to the 5th UNGA (1950) and has been observed at every subsequent regular session. All Representatives and Alternates are appointed by the President with the advice and consent of the Senate.

The U.S. Ambassador to the UN is always listed first, as Chairman of the Delegation. While there is no hard and fast rule about the place of the Public Members on the delegation (Representative or Alternate), it has been the practice in recent years for the President to designate one of the Public Members to serve as a Representative. The two Congressional members are also appointed as Representatives, along with the Deputy U.S. Representative to the UN. The other three USUN Ambassadors serve as Alternates together with the other two Public Members.

Congressional Delegates

The two Congressional delegates have traditionally alternated between the Senate and the House, in each case one Democrat and one Republican. For the 36th Session, it will be the turn of the House. As noted above, these two delegates are appointed by the President and serve as full regular members of the "U.S. Delegation", representing the Government and not as Congressional advisers per se. Normally, they are selected directly by the White House in consultation with Congressional leadership. The standard letter from the Department to the Vice President and Speaker normally used to solicit Congressional participation at international conferences is not employed for the UNGA.

Public Members X

The three Public Members are usually distinguished citizens who are not necessarily concerned professionally with foreign policy matters but bring to the delegation a first-hand experience and knowledge of the concerns and hopes of the American people. Nominations for public members have been traditionally handled by the White House personnel office. Public members, after their appointment, go on the USUN payroll and are paid on a "When Actually Employed" basis; that is, for the duration of the Session.

Because of the time required to process these appointments, including conflict of interest and security clearances and confirmation by the Senate, it is important to initiate action several months in advance of the opening of the General Assembly. From the time the nominations are announced, it is best to count on at least four weeks for the process to be completed. Of course, if the Senate goes out of session, the process can take longer.

Advisers on the Delegation

AS
As stated above, there is no limit imposed by the General Assembly itself on the number of advisers that may be accredited. The number last year, for the 35th UNGA, totaled 64. In view of our efforts to reduce delegation size, it may be desirable to reduce that number somewhat this year.

There are two major categories of advisers: Special Advisers and Advisers. The former usually includes high ranking officials from Washington (e.g. the Under Secretary for Political Affairs, Assistant Secretary for International Organization Affairs, the Director of ACDA, etc.), and the U.S. Representatives to the various United Nations Commissions (e.g. Human Rights, Status of Women, Social Development). Delegation advisers are chosen primarily from USUN itself; virtually the entire substantive staff is accredited. Other advisers are detailed from Washington either for the full session or for limited periods to deal with specific issues as they come up on the agenda of the various Committees or in Plenary.

Regional Advisers

In addition to these advisers, it is customary to accredit five FSO political officers representing the five Geographic Bureaus in the Department. These officers work closely with

the political section of USUN, primarily on lobbying and analytical reporting. Sometime in July IO will solicit nominations from the Bureaus for these adviser positions.

Congressional Staff Adviser

In recent years it has been the practice to accredit one member from the staff of the Senate or House Committee on Foreign Relations. (Personal staff of Congressional members sometimes attend part of a session, but are not accredited as members of the Delegation.)

Note Takers

Finally, the Department provides three junior officers for three months TDY to assist the delegation with note taking. The three are not accredited as members of the delegation. IO looks to Personnel to fill these positions.

THE WHITE HOUSE

Office of the Press Secretary
(Columbia, South Carolina)

For Immediate Release

September 20, 1983

The President today announced his intention to nominate the following individuals to be Representatives and Alternate Representatives of the United States of America to the 38th Session of the General Assembly of the United Nations.

REPRESENTATIVES

Jeane J. Kirkpatrick, U. S. Ambassador to the United Nations.

Jose S. Sorzano, U. S. Deputy Representative to the United Nations.

John L. Loeb, Jr., currently serving as U. S. Ambassador to Denmark.

Joel Pritchard, U. S. Representative from the State of Washington.

Stephen J. Solarz, U. S. Representative from the State of New York.

ALTERNATE REPRESENTATIVES

Charles M. Lichenstein, Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

William C. Sherman, Deputy Representative of the United States on the Security Council of the United Nations, with the rank of Ambassador.

Constantine N. Dombalis, of Richmond, Virginia.

Alan L. Keyes, the President's nominee to be Representative of the United States on the Economic and Social Council of the United Nations, with the rank of Ambassador.

Lyn P. Meyerhoff, of Owing Hills, Maryland.

#


THE WHITE HOUSE
WASHINGTON

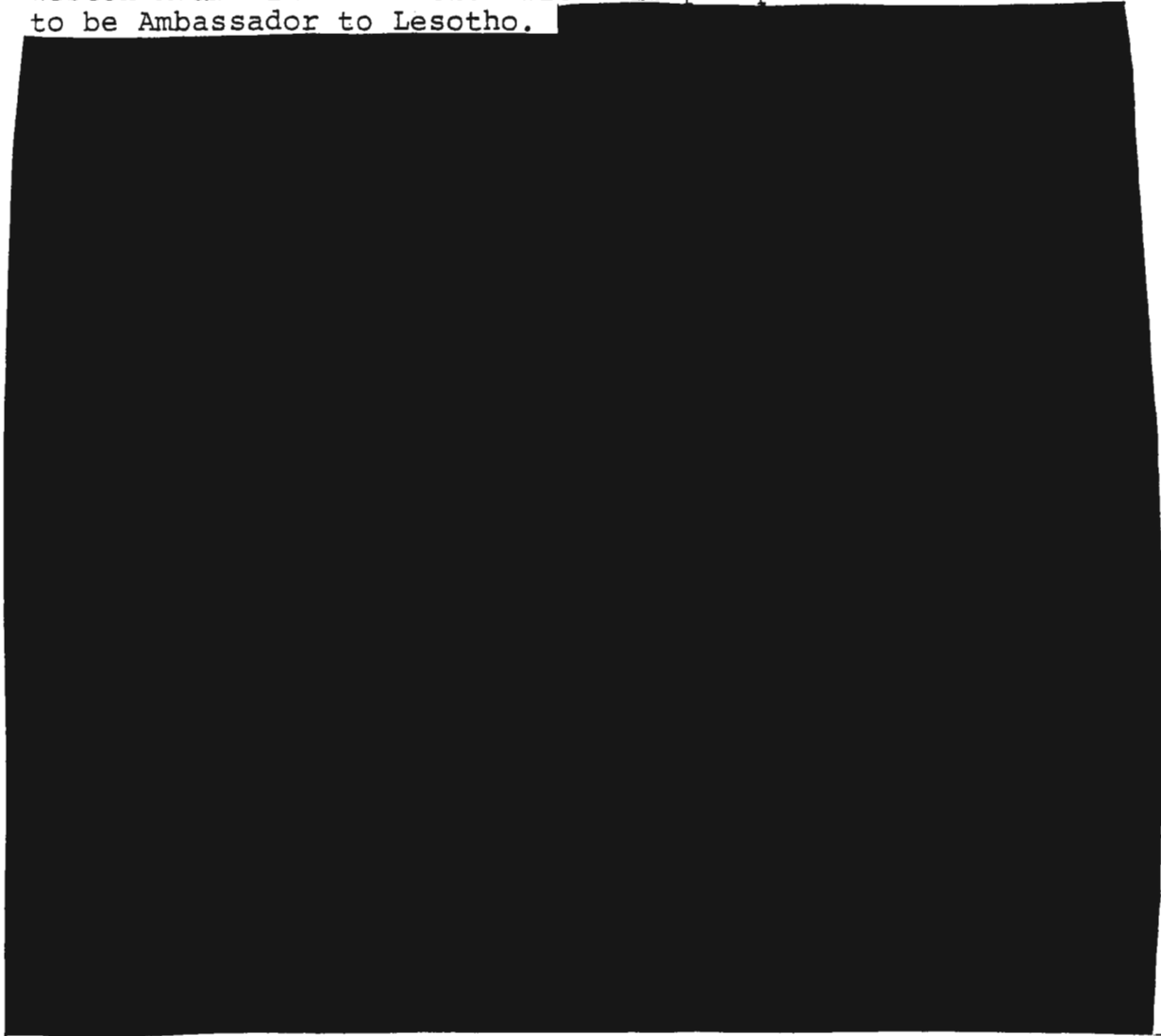
October 4, 1983

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Weston Adams

I have reviewed the SF-278 and associated forms completed by Weston Adams in connection with his prospective nomination to be Ambassador to Lesotho. 



bb

I have no objection to proceeding with this nomination, although Adams should be prepared to respond to questions concerning the admissions policies of the Hammond Academy.

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR FRED F. FIELDING

THRU: RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: H.R. 3932 Regarding Application of
Chadha Legislative Veto Provisions
to the District of Columbia Council
Acts

By memorandum received in our office on October 3 James Murr of OMB asked for our views by October 6 on H.R. 3932, as reported by the House District Committee. This bill would alter the provisions of the D.C. Self-Government and Governmental Reorganization Act to comply with the Chadha decision, essentially changing "concurrent resolution" to "joint resolution." Stan Harris reacted with understandable horror at the prospect of giving such a free hand to the D.C. Council, particularly in criminal matters, and has asked our office (through Richard Hauser) and the Justice Department to see if there were some different approach that could be taken.

While Justice was considering this matter - and had advised OMB that it was not ready with a position - OMB went ahead and advised the House that the Administration had no objection to the bill. We had not yet commented since our views had been requested by October 6. (The extent of OMB's effort to obtain our views consisted of one phone call from Janet Fox to Mr. Hauser.) A vote in the House on the bill is scheduled for today. We advised OMB to pull back the "no objection" position, which they did, so the Administration has no position on the bill.

Ted Olson is meeting with Harris to review Harris' arguments that Chadha may not be fully applicable to D.C. legislation. Even if these arguments fail, we can still point out policy concerns, and suggest alternatives to the bill. For example, at least in certain areas, it may be better to require affirmative Congressional approval of D.C. laws rather than an opportunity for disapproval by joint resolution. Everyone seems confident the bill will pass the House, so any concerns we might decide to voice would be directed to the Senate.

We were poorly served by OMB in this case, and the attached draft memorandum to Murr is appropriately curt.

This just in - H.R. 3932 passed the House this afternoon.

Attachment

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR JAMES C. MURR
ASSISTANT DIRECTOR FOR LEGISLATIVE
REFERENCE
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 3932 Regarding Application of
Chadha Legislative Veto Provisions
to the District of Columbia Council
Acts

By memorandum dated September 30 you asked for our views on the above-referenced bill by October 6. On October 4 we discovered that, without hearing from our office and in the face of concerns expressed by the Department of Justice, OMB had advised the Hill that the Administration had no objection to this bill. It is our understanding that we have now receded from this position, and have formally taken no position on the bill.

The Department of Justice is reviewing whether legislation of this sort is in fact required by the Supreme Court's decision in INS v. Chadha. Assuming that some corrective legislation is necessary, it is not immediately apparent that H.R. 3932 represents the best approach. There are federal interests in the District that may not be adequately protected if legislation is required to block action by the D.C. Council. It may be worth considering a requirement of affirmative approval by Congress, not across the board but in certain sensitive areas.

In any event, the matter should be thoroughly reviewed by the Department of Justice and other affected agencies prior to announcement of an Administration position. We trust that an opportunity for such review will be provided.

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Invitation from American Bar Association
to Robert F. Turner to Speak on War Powers
Resolution

Robert F. Turner, Counsel to the President's Intelligence Oversight Board, has asked you and Bob Kimmitt if you have any objections to him accepting an invitation to speak on the War Powers Resolution at a breakfast "for movers and shakers in the American Bar Association." The invitation was sent by W.C. Mott for the ABA's Standing Committee on Law and National Security. The breakfast is scheduled for October 21. Turner would advise the audience that "I was wearing my ABA hat rather than my White House hat."

I do not think that much can be gained by having an official in Turner's position speaking on the War Powers Resolution so soon after the delicate compromise reached on Lebanon. Despite disclaimers Turner will be viewed as representing Administration policy, and the audience could be influential enough that Turner's statements will have some impact. I think we should let the waters settle somewhat before sailing forth with our views on war powers before any forum. If you disagree, at the very least we should review a draft of Turner's proposed remarks.

Attachment

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR ROBERT F. TURNER
COUNSEL TO THE PRESIDENT'S INTELLIGENCE
OVERSIGHT BOARD

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: American Bar Association Invitation to
Speak on War Powers Resolution

Thank you for your memorandum of September 28, asking if we had any objections to your accepting an invitation to address an ABA breakfast on the subject of the War Powers Resolution. I am inclined to think that any remarks you might make would, despite disclaimers, be viewed as representing Administration policy. I do not consider it an opportune time for unnecessary pronouncements on the War Powers Resolution, so soon after the delicate compromise on Lebanon. It strikes me as preferable to avoid controversy on this subject as much as possible while the waters settle. Accordingly, I recommend that you decline the ABA invitation.

Thank you again for raising this matter with us.

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Statement of William M. Lenck
Regarding Conveyance Seizures

William M. Lenck, DEA Forfeiture Counsel, proposes to deliver the attached statement on October 14. The statement reviews typical DEA forfeiture procedures, outlining the distinctions between criminal and civil forfeiture and administrative and judicial forfeiture. Lenck expresses DEA's strong support for legislative proposals to increase the use of administrative forfeiture by raising the current maximum level from \$10,000 to \$100,000. He also expresses DEA's support of proposals to establish a forfeiture fund to collect forfeiture proceeds and pay costs of forfeiture, and legislation to permit transfer of forfeited property to state and local law enforcement agencies. I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of William M. Lenck
Regarding Conveyance Seizures

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

FFF:JGR:aea 10/5/83

cc: FFFielding
JGRoberts
chrøn

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

DOJ Proposed Report on H.R. 1793
and H.R. 2048 "to eliminate the
exemption for Congress or for the
U.S. from the application of certain
provisions of Federal law relating to
employment, privacy, social security,
and for other purposes"

OMB has asked for our views by October 25 on the above-referenced proposed report. The bills in question would eliminate many of the exemptions Congress has written into the laws it has foisted on the private sector and the Executive branch. In particular, the bills would extend coverage of the Freedom of Information Act and the Civil Rights Act of 1964, would grant employees of the legislative branch the same collective bargaining rights accorded Executive branch employees, would make OSHA applicable to Executive and legislative branch employees, and would bring legislative branch employees within the scope of the Social Security Act.

The proposed Justice Department report notes no objection to the legislation, although it does indicate that Speech and Debate Clause questions of uncertain resolution may be raised. The bulk of the Justice report argues that the bills should specify that the proper party defendant in any suit under the extended acts should be the United States, as opposed to any individual congressman, and that the Justice Department should be designated as counsel in all cases arising under the proposed legislation. The latter proviso raises interesting questions, particularly under an extended FOIA. It is, for example, easy to imagine an FOIA suit against a congressman in which the congressman would not necessarily wish to share the documents in question with attorneys from the Executive branch charged with defending the suit. As a general rule, however, if the suits are going to be styled as against the United States, the Justice Department should appear on behalf of the defendant.

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR JAMES C. MURR
ASSISTANT DIRECTOR FOR LEGISLATIVE
REFERENCE
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: DOJ Proposed Report on H.R. 1793
and H.R. 2048 "to eliminate the
exemption for Congress or for the
U.S. from the application of certain
provisions of Federal law relating to
employment, privacy, social security,
and for other purposes"

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

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decisions in
Independent Air, Inc. and California-
Alberta Service Case

Richard Darman's office has asked for comments by close of business Friday, October 7 on the above-referenced CAB decisions, which were submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in these cases, by October 18 and 22, respectively).

The orders here have been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since these orders involve domestic carriers, the proposed letter from the President to the CAB Chairman prepared by OMB includes the standard sentence designed to preserve availability of judicial review.

The Independent Air order authorizes foreign charter service by that carrier. The California-Alberta order authorizes Western to fly that route, with back-up service by Northwest. My review confirms OMB's description of these as "routine, noncontroversial matters."

There is, however, a mistake in the materials that should be pointed out. The memorandum from Constance Horner to Darman incorrectly lists the due date on the California-Alberta order as October 23. That is the sixty-first day, when the order goes into effect. Any action by the President is due the day before, October 22. This error will doubtless make no difference in this case, but should be pointed out so OMB

does not make the same mistake when it could make a difference. (The due date for the Independent Air order is correct.)

A memorandum for Darman is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions in
Independent Air, Inc. and California-
Alberta Service Case

Our office has reviewed the above-referenced CAB decisions and related materials and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

We would point out, however, that the memorandum for the Assistant to the President and Deputy to the Chief of Staff prepared by OMB Associate Director Horner lists an incorrect due date for the California-Alberta Service Case order. Any Presidential action is required by October 22, the sixtieth day after transmittal to the President. October 23 is the sixty-first day, and by then it would, under the statute, be too late for the President to act. The listed due date of October 18 for the Independent Air order is correct.

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Correspondence from William Best
to Michael K. Deaver

William H. Best of Jason Systems Inc. has written Mr. Deaver to urge a crash program to achieve American technological superiority over the rest of the world. Best is the same character who was copying Craig Fuller on business correspondence in which Fuller was not involved. We prepared a letter for Fuller to send to Best and sent it to Fuller on September 13. Fuller has not yet sent the letter. His office advises that he plans to edit it and mail it in the near future.

Your note on the tracking sheet suggested that we should cut Mr. Best off. I agree, but think we should simply not respond to this letter. The letter does not even seek a response, and there is actually nothing improper about this letter, as opposed to the previous correspondence. This letter simply airs Mr. Best's views. I have prepared a memorandum to Deaver, advising him not to respond.

Attachment

THE WHITE HOUSE

WASHINGTON

October 5, 1983

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Correspondence from William Best
to Michael K. Deaver

William H. Best, Chairman of the Board and Chief Executive Officer of Jason Systems Inc., wrote you on September 23 to urge that the United States initiate a crash program to achieve technological superiority. We have had some difficulty with Mr. Best's correspondence in the past. Best has engaged in the practice of "copying" innocent Administration officials on his business correspondence in an apparent effort to convey the totally false impression of close links with the Administration to potential customers. We are presently taking steps to redress this problem. With respect to Best's letter to you of September 23, I think the best course would simply be not to respond at all.

THE WHITE HOUSE

WASHINGTON

October 7, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Letter to Trent Lott
on Regulatory Reform Bill

Richard Darman has asked for comments by close of business today on a draft letter from Ken Duberstein to Congressman Trent Lott. On September 12 Lott sent the President a lengthy bill, now introduced as H.R. 3939, the "Regulatory Oversight and Control Act of 1983," and sought Administration support for its passage. A cursory review of the omnibus bill indicates that it would impose cost-benefit analysis requirements on agencies issuing regulations and authorize the President to review and monitor agency compliance with these requirements. The bill also contains a modified Bumpers Amendment, and a response to Chadha that would impose a generally applicable "report and wait" provision with joint resolution of approval required for major rules and an opportunity for a joint resolution of disapproval for minor rules.

Our office has not had an opportunity to evaluate carefully the 55-page bill, nor have the various departments throughout the executive branch. Any letter to Lott at this stage must accordingly be phrased in broad generalities. It is likely that we will oppose some provisions of Lott's bill, most notably the Bumpers Amendment (even as modified) and perhaps some aspects of the Chadha response. For example, the bill provides that rules that can only be blocked by a joint resolution of disapproval may go into effect prior to expiration of the 90-day waiting period upon rejection by either House of a disapproval resolution. This provision purports to give legal effect to Congressional action (one House's rejection of a resolution) without action by both Houses and presentment to the President, in violation of Chadha.

Much of Duberstein's letter is unobjectionable, simply noting that we have already testified in favor of predecessors of parts of Lott's bill, and that we have initiated a more detailed review. Duberstein's opinion that Lott's approach to legislative veto is consistent with Chadha should be deleted, however, pending Justice Department review. The last sentence in the penultimate substantive paragraph should also be changed, as it suggests

we will have a general "strategy" on legislative veto, and that we have not already been reviewing the matter for some time. My specific suggestions appear in the attached draft memorandum.

Attachment

THE WHITE HOUSE

WASHINGTON

October 7, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT
DEPUTY TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Letter to Trent Lott
on Regulatory Reform Bill

Counsel's Office has reviewed the proposed letter from Ken Duberstein to Congressman Trent Lott concerning the "Regulatory Oversight and Control Act of 1983." As an initial matter, we would prefer to await the receipt of detailed comments from interested departments before responding to Lott. If some immediate response is considered necessary, it must be phrased in the most general terms and avoid specific comment.

With this in mind, the first sentence of the third paragraph is far too affirmative an expression of support for Title I of the bill, particularly since Title I contains a modified "Bumpers Amendment" that I am not certain the Administration will support. We suggest changing the sentence to read "Much of Title I of your bill appears to be drafted in the spirit of those bills and Executive Order 12291," and making it the last sentence of the previous paragraph.

The second sentence of the third paragraph should be deleted, and no comment should be made on Lott's approach to Chadha until the question has been reviewed by the Justice Department. While Lott's general approach is probably Constitutional, certain particulars appear invalid. For example, Lott's bill would permit regulations that could only be blocked by joint resolution of disapproval to become effective prior to the expiration of the 90-day waiting period upon rejection of a resolution of disapproval by one House. This gives legal effect to action by Congress (rejection by one House) that does not satisfy the bicameralism and presentment requirements of Chadha. Furthermore, the policy implications of Lott's approach should be reviewed prior to any comment.

We also recommend deletion of the last sentence of the fourth paragraph. As written the sentence suggests we have not yet begun a review of the legislative veto question, and

also suggests that we will have a "strategy" to announce on legislative veto. The former implication is inaccurate and the latter may well be. I think it best not to mention legislative veto at all in this letter, simply leaving that as one of the items on which OMB will be seeking agency comment.