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WITHDRAWAL SHEET

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FOIA

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COOK

39IGP

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO FIELDING RE H.R. 3348 (OPEN IN WHOLE)	1	11/18/1983	B6	626

COPY - Reagan Presidential Record

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

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- 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

November 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: H.R. 3348 -- Gold Medal in Honor
of the Late Congressman Leo J. Ryan

Richard Darman has asked for comments on the above-referenced enrolled bill as soon as possible. The bill directs the Department of the Treasury to strike a gold medal to honor former Congressman Leo J. Ryan, the Democrat from California who was killed while visiting the "People's Church" settlement in Jonestown, Guyana. The bill would also authorize production and sale of bronze duplicates. The medal is to be in recognition of Ryan's "distinguished service" and "untimely death by assassination." The bill passed both Houses by voice vote. OMB recommends approval; Treasury has no objection.

I am not certain I would have voted to give a gold medal to Ryan. The distinction of his service in the House is certainly subject to debate, and his actions leading to his murder can be viewed as those of a publicity hound. Nonetheless, I see no legal objection to the President signing this bill.

Attachment

THE WHITE HOUSE

WASHINGTON

November 18, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 3348 -- Gold Medal in Honor
of the Late Congressman Leo J. Ryan

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

FFF:JGR:aea 11/18/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Presidential Radio Talk:
Department of the Interior
(11/17/83; 5:00 p.m. draft)

Richard Darman has asked that comments on the attached revised draft be sent directly to Ben Elliott by 10:00 a.m. today. The remarks are still in praise of former Secretary Watt's record, although some examples have been deleted and others added. The new remarks, for example, mention protection for coastal areas and the private sector effort, led by Lee Iacocca, to restore the Statue of Liberty.

The change we suggested in our memorandum on the earlier draft has not yet been incorporated, presumably because our comment and the revised draft crossed in the mail. I have reiterated our suggestion in the attached memorandum, and have no other legal objections.

Attachment

THE WHITE HOUSE

WASHINGTON

November 18, 1983

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Radio Talk:
Department of the Interior
(11/17/83; 5:00 p.m. draft)

Counsel's Office has reviewed the revised draft of the above-referenced remarks. We reiterate our suggestion that "clouded title to" on page 3, line 10 be deleted.

cc: Richard G. Darman

FFF:JGR:aea 11/18/83
bcc: FFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Suggested (Draft) Signing Statement
for H.R. 3348 (Gold Medal for Leo Ryan)

Richard Darman asked for immediate comments on the attached draft signing statement. In your and Mr. Hauser's absence, I advised Darman's office to correct the split infinitive in the second paragraph and to substitute "this high honor" for "the nation's highest civilian honor" in the last sentence. I am aware of no formal ranking of civilian honors, and have often seen the Presidential Medal of Freedom described as "the nation's highest civilian honor."

Attachment

THE WHITE HOUSE

WASHINGTON

November 21, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 3222 -- Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Bill, 1984

Richard Darman has asked for comments by 2:00 p.m. Monday, November 21 on the above-referenced enrolled bill. This bill is a compromise agreed to by Senate and House conferees and the Administration. Like most appropriations bills it contains several objectionable provisions apart from the setting of budget levels. For example, three individuals who man the National Data Buoy Center in Bay St. Louis, Mississippi, are given an unusual level of job security (p. 4), and Commerce is prohibited from proceeding with plans to "privatize" our weather satellites (p. 6).

Legal Services grants are frozen at last year's levels (p. 18), until changed by a board of directors confirmed by the Senate. Such a distinction between the powers of directors recess appointed by the President and directors confirmed by the Senate is an unconstitutional infringement on the President's recess appointment power. The bill does, however, contain several provisions with respect to the Legal Services Corporation supported by the Administration, including lobbying, class action, and alien representation restrictions (pp. 19-22).

There is an odd legislative veto provision in the bill (p. 32), one that could mean all things to all people. It provides: "None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States." Since "the applicable law of the United States" includes the Constitution, as interpreted in INS v. Chadha, I have no objection. Interpreting this provision to mean that funds would be cut off by an unconstitutional legislative veto resolution would make this provision itself unconstitutional, since it would give legal effect to action not satisfying the Constitutional prerequisites for legislation. Congress cannot accomplish by indirection what it cannot do directly.

The most troublesome provision of the bill is section 510 (p. 32), which provides, in part: "None of the funds appropriated in title I and title II of this Act may be used for any activity, the purpose of which is to overturn or alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws..." Justice has filed a brief before the Supreme Court in the Monsanto case arguing against per se treatment of resale price maintenance, and is scheduled to present oral argument on December 5. According to a conversation with Assistant Attorney General Olson on Friday, Justice proposes to: (1) advise the Supreme Court by letter of this provision, and not raise the per se issue at oral argument; (2) prepare an OLC opinion to protect Assistant Attorney General Baxter and his attorneys in the limited work they are compelled to do in this area; and (3) provide signing statement language interpreting this provision in a limited fashion. Olson indicated the signing statement might also refer to the Legal Services and legislative veto provisions.

Assistant Attorney General McConnell also called on Friday, to note that Justice had not yet reviewed or commented upon the bill. The OMB memorandum indicates Justice "approved" the bill informally, but McConnell stated that the approval only extended to the budgetary levels.

The last day for action on this bill is November 29. I advised Darman's office that it may be necessary to extend the deadline of 2:00 p.m. today in order to address Justice's concerns. Darman's office had no objection to such an extension.

The attached memorandum to Darman is accordingly an interim reply, noting that we are awaiting signing statement language from Justice. Section 510 of the bill raises very serious problems. It is an effort by Congress to place itself in the Attorney General's shoes behind the podium at the Supreme Court, which may violate separation of powers. On the other hand, Congress doubtless has the power to declare resale price maintenance illegal per se, and has all but done so in section 510, albeit in a bizarre fashion. Justice's inclination is to avoid a constitutional confrontation. I will await receipt of their language before evaluating this approach.

Attachment

THE WHITE HOUSE

WASHINGTON

November 21, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3222 -- Departments
of Commerce, Justice, and State, the
Judiciary and Related Agencies Appropriations
Bill, 1984

Counsel's Office has reviewed the above-referenced enrolled bill. It contains several provisions that are objectionable from a legal perspective, most prominently the restrictions on the authority of the recess appointed board of directors of the Legal Services Corporation, the back-handed legislative veto provision in section 505, and the restriction on use of funds to argue against treating resale price maintenance as per se illegal in section 510. The last provision raises particular problems since the Justice Department has filed a brief before the Supreme Court making such an argument, and is scheduled to advocate this position at oral argument on December 5.

The Justice Department is currently reviewing these provisions and preparing a signing statement addressing them. We should await the receipt of this statement before taking any action with respect to this bill.

FFF:JGR:aea 11/21/83
cc: FFFielding/JGRoberts/Subj/Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1 1

Name of Correspondent: Richard G. DARMAN

MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Enrolled Bill H.R. 3222 - Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Bill, 1984

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CPDOL</u>	ORIGINATOR	<u>83,11,18</u>			<u>1 1 1</u>
	Referral Note:				
<u>CUATIB</u>	<u>D</u>	<u>83,11,18</u>		<u>S</u>	<u>83,11,21</u> <u>2:00 pm</u>
	Referral Note:				
	Referral Note:				
	Referral Note:				

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: _____

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Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 11/17/83 ACTION/CONCURRENCE/COMMENT DUE BY: 2:00 p.m. MONDAY 11/21

SUBJECT: Enrolled Bill H.R. 3222 - Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Bill, 1984

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	HICKEY	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McFARLANE	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McMANUS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VERSTANDIG	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
GERGEN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HERRINGTON	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide comments/recommendations by 2:00 p.m. MONDAY, November 21, 1983.

Thank you.

RESPONSE:

NOV 18

Richard G. Darman
Assistant to the President
Ext. 2702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 17 1983

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3222 - Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Bill, 1984
Sponsor: Rep. Whitten (D-Miss.)

LAST DAY FOR ACTION

November 29, 1983

PURPOSE

The bill provides \$10,500 million for the Departments of Commerce, Justice and State, the Judiciary, related programs in other departments, and many independent agencies.

HIGHLIGHTS

The Conference agreement provides \$10,288 million in budget authority for discretionary programs, which is \$731 million over the President's request. However, your request included no funding for either the Legal Services (LSC) or the Economic Development Administration (EDA). Congress has overwhelmingly supported continuation of these programs and has provided funding at roughly a freeze level compared to 1983.

After adjusting for LSC and EDA, Congressional increases are limited to \$216 million. Most of this (\$171 million) reflects the Congress' desire to maintain the National Oceanic and Atmospheric Administration (NOAA) at the 1983 program level.

The Conference agreement represents a \$263 million reduction below the level provided by the House Appropriations Committee.

AGENCY RECOMMENDATIONS

Office of Management and Budget	Approval
Department of Commerce	Approval (informally)
Department of Justice	Approval (informally)
Department of State	Approval (informally)
Other Affected Agencies	Approval (assumed)

SUMMARY OF CONGRESSIONAL ACTION

(in millions of dollars)

	<u>FY 1983 Enacted</u>	<u>President's 1984 Request</u>	<u>Conference 1984 Action</u>	<u>Conference Compared to FY 1983</u>	<u>President's 1984 Request</u>
Annually funded programs*.....	9,533	9,557	9,773	+240	+216
Legal Services Corporation and EDA program....	509	0	515	+6	+515
Non-discretionary programs.....	200	212	211	+11	-1
	=====	=====	=====	=====	=====
Total Spending Authority.....	10,243 **	9,769	10,500 **	+257	+731 **

* Excludes funding for Legal Services Corporation and Economic Development Administration programs.

** Detail does not add to total due to rounding.

DISCUSSION

The Conference agreement contains several objectionable provisions:

- o Language in the bill precludes EDA from selling loans without the consent of the borrower. Such language is undesirable and will hinder debt collection efforts by EDA.
- o The bill would mandate continued funding of existing Legal Services Corporation (LSC) grantees unless action is taken before January 1, 1984 by an LSC Board of Directors confirmed by the Senate. This provision may conflict with your constitutional authority to make recess appointments. The current LSC Board was appointed on a recess basis. Your nominations to the Board are currently pending in the Senate.
- o The bill prohibits the use of NOAA funds for commercialization of the NOAA remote sensing weather satellites but does not prohibit commercialization of the land remote sensing system (LANDSAT).

Several important provisions favored by the Administration concerning the Legal Services Corporation were incorporated into this bill. They include:

- o Tougher restrictions on lobbying activities by LSC grantees.
- o Restrictions on class action lawsuits against Federal or State governments.
- o Limits on LSC-funded aid to aliens.
- o Changes in rules for denying renewed funding to grantees which LSC judges as ineffective or not in compliance with LSC rules. Requirements for an independent hearing examiner are retained, but the burden of proof is shifted from LSC to the grantee.
- o Restrictions on LSC Board compensation, payments for private club memberships, and LSC employee severance pay.

RECOMMENDATION

Although it exceeds the Administration's request and contains several objectionable provisions, the enrolled bill is viewed as an acceptable compromise among Administration, House and Senate versions.

I recommend that you sign the enrolled bill.

A handwritten signature in black ink, appearing to read "David A. Stockman", with a long, sweeping horizontal stroke extending to the right.

David A. Stockman
Director

THE WHITE HOUSE
WASHINGTON

November 21, 1983

MEMORANUDM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: H.R. 2915 -- Department of State
Authorization

Richard Darman has asked for immediate comments on the above-referenced enrolled bill. Prompt action is necessary because the continuing resolution prohibits obligating funds beyond November 18, 1983 for the State Department unless authorizing legislation is enacted. I have not yet seen the actual bill; the Clerk's Office advises that it has not yet been officially enrolled. Based on the OMB memorandum, however, the bill contains several objectionable provisions:

- It delays implementation of NSDD-84 until April 15, 1984. NSDD-84 contains the new prepublication review requirements.
- The bill restricts the President's appointment powers by requiring the director of the Office of Foreign Missions, appointed by the President by and with the advice and consent of the Senate, to be a ten-year veteran of the Foreign Service with management experience and experience serving in areas where the U.S. has had problems operating its missions. I am advised that both Congress and State have a specific candidate in mind, a rival of the choice of the President and NSC.
- The bill provides "fast track" treatment for legislation requiring removal of U.S. Armed Forces engaged in hostilities abroad.
- The bill requires annual reports from the President on steps taken by drug source countries to cut off the flow of drugs into the U.S. If these steps are inadequate, U.S. assistance is to be cut off.
- A cap is placed on U.S. contributions to international organizations that will cause the U.S. to go into arrears on treaty obligations. State will seek remedial legislation next year.

None of these objectionable provisions are weighty enough to justify shutting down the State Department, which would be the result of a veto. Indeed, only the restriction on the President's appointment powers with respect to the director of the Office of Foreign Missions raises constitutional concerns, and even there the issue is not clear. The question would turn on how large a pool of candidates is left for the President to choose from after the new qualifications are taken into account.

As noted earlier, this analysis is based on the OMB memorandum. I have prepared an acquiescence memorandum to Darman for your signature, but it should not be sent until I advise you that I have obtained and reviewed the bill itself, to guarantee the accuracy of the representations in the OMB memorandum.

Attachment

THE WHITE HOUSE

WASHINGTON

November 21, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 2915 -- Department of State
Authorization

Counsel's Office has reviewed the above-referenced enrolled bill. While we share many of the concerns that have been noted with respect to the objectionable provisions of this bill, particularly the restrictions on the President's authority to appoint the director of the Office of Foreign Missions, we concur in the view that these concerns do not, under the circumstances, warrant disapproval.

FFF:JGR:aea 11/21/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 21, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Enrolled Bill H.R. 2910 -- Salt
River Pima-Maricopa Indian Reservation
Leases

Richard Darman has asked for comments by 2:00 p.m. today on the above-referenced enrolled bill. The bill would permit inclusion of binding arbitration clauses in leases affecting land within the Salt River Pima-Maricopa Indian Reservation, and bind the tribe to abide by such arbitration. Without such a provision the tribe could assert sovereign immunity, and this possibility has impeded development of highly valuable tribal lands. The tribe itself sought this legislation.

OMB and Interior recommend approval; Justice has no objection. 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

November 21, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2910 -- Salt
River Pima-Maricopa Indian Reservation
Leases

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

FFF:JGR:aea 11/21/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 21, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: D.C. Chadha Bill

The D.C. Chadha bill controversy has entered a new round. By letter to Senator Mathias dated November 17, Mayor Barry proposed new legislative language purporting to resolve the bond issue while leaving the Congressional review issues for future consideration. Barry's new proposal would (1) validate previous D.C. Council acts and (2) specify that the existing legislative veto provisions in the Self-Government and Governmental Reorganization Act are severable from the rest of the Act. Barry asserts that this is the "minimum amendment necessary" to obtain an unqualified opinion from bond counsel. Chairman David Clarke of the D.C. Council has endorsed this approach.

The Mayor's latest proposal is clever in that it appears to resolve the bond issue and reserve the Congressional review questions, while in fact it gives the Mayor everything he wants across the board. Justice is convinced that the legislative veto provisions are unconstitutional. Barry's proposed severance clause would mean that the legislative veto provisions are simply dropped from the Act, leaving the provisions authorizing D.C. Council action intact. The net effect would be that Congress would be required to pass legislation disapproving D.C. Council acts to block them -- what the Mayor has wanted all along.

The only risk the Mayor is taking is that the courts will uphold the constitutionality of the legislative vetoes in the Act, on a theory affording Congress special powers over district affairs. Justice has reviewed and rejected such a theory, and the Chadha opinion itself does not seem open to such exceptions.

Attachment

THE WHITE HOUSE
WASHINGTON

November 21, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Your Suggested Change in Clarke/Rolark
Letter

Attached are two versions of the Clarke/Rolark letter, one with the change you suggested (modified slightly for grammatical purposes) and one without. I recommend the version without your suggested change. Stating that the Justice letter was "revised after we had the benefit of your views" suggests (1) that we have already evaluated and responded fully to their concerns, which is inconsistent with the last paragraph of our letter, and (2) that we were deeply involved in drafting the letter, a view we want to dispel rather than discourage.

Attachments

THE WHITE HOUSE

WASHINGTON

November 21, 1983

Dear Mr. Clarke and Ms. Rolark:

Thank you for your letter of November 15, concerning a draft of a letter to Senator William V. Roth, Jr. from Assistant Attorney General Robert A. McConnell. That draft letter discussed H.R. 3932, a bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to correct certain constitutional infirmities in the wake of the Supreme Court's recent decision in Immigration and Naturalization Service v. Chadha, 103 S.Ct. 2764 (1983). A letter from Assistant Attorney General McConnell concerning H.R. 3932 has now been sent. That letter contains several changes from the draft you reviewed, and was revised after we had the benefit of your views.

I have referred your letter to Assistant Attorney General McConnell for his consideration and direct reply. The Department of Justice is most directly involved in these issues and accordingly is in the best position to respond to your expressed concerns. Thank you for sharing those concerns with us.

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable David A. Clarke
The Honorable Wilhelmina J. Rolark
Council of the
District of Columbia
Washington, D.C. 20004

FFF:JGR:aea 11/21/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 21, 1983

Dear Mr. Clarke and Ms. Rolark:

Thank you for your letter of November 15, concerning a draft of a letter to Senator William V. Roth, Jr. from Assistant Attorney General Robert A. McConnell. That draft letter discussed H.R. 3932, a bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to correct certain constitutional infirmities in the wake of the Supreme Court's recent decision in Immigration and Naturalization Service v. Chadha, 103 S.Ct. 2764 (1983). A letter from Assistant Attorney General McConnell concerning H.R. 3932 has now been sent, although with several changes from the draft you reviewed.

I have referred your letter to Assistant Attorney General McConnell for his consideration and direct reply. The Department of Justice is most directly involved in these issues and accordingly is in the best position to respond to your expressed concerns. Thank you for sharing those concerns with us.

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable David A. Clarke
The Honorable Wilhelmina J. Rolark
Council of the
District of Columbia
Washington, D.C. 20004

FFF:JGR:aea 11/21/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 16, 1983

Ann

Dear Mr. Clarke and Ms. Rolark:

Thank you for your letter of November 15, concerning a draft of a letter to Senator William V. Roth, Jr. from Assistant Attorney General Robert A. McConnell. That draft letter discussed H.R. 3932, a bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to correct certain constitutional infirmities in the wake of the Supreme Court's recent decision in Immigration and Naturalization Service v. Chadha, 103 S.Ct. 2764 (1983). A letter from Assistant Attorney General McConnell concerning H.R. 3932 has now been sent, although with several changes from the draft you reviewed *and several after we had the benefit of your views.*

I have referred your letter to Assistant Attorney General McConnell for his consideration and direct reply. The Department of Justice is most directly involved in these issues and accordingly is in the best position to respond to your expressed concerns. Thank you for sharing those concerns with us.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. David A. Clarke
Ms. Wilhelmina J. Rolark
Council of the District of
Columbia
Washington, D.C. 20004

THE WHITE HOUSE

WASHINGTON

November 22, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Remarks: Signing Ceremony for Decade
of Disabled Persons Proclamation

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by 1:00 p.m. tomorrow, November 23. The remarks will accompany the signing of the Proclamation designating 1983-1992 the "National Decade of Disabled Persons." The remarks praise the Outstanding Handicapped Federal Employees of the Year, who will be sharing the platform with the President, and generally expound the theme of promoting economic independence for the handicapped rather than simply giving them welfare. In the course of the remarks the President announces three new initiatives: an HHS program to strengthen private sector job opportunities, an Education and HHS program to aid in the transition from special education to community integration, and a new information referral system.

The carryover paragraph between pages 2 and 3 discusses the decision not to go ahead with proposed changes in Public Law 94-142, the Education for All Handicapped Children Act of 1975. You will recall that the Administration proposed changes that outraged the handicapped community, and were withdrawn under pressure. Mere mention of this topic still infuriates many in the handicapped community (including even our own new Assistant Secretary of Education Mrs. George Will), and I think we should question whether it should be mentioned at all. If it is, it should be correctly identified (Education for All Handicapped Children Act of 1975, not The Handicapped Children's Education Act).

On page 4, second full paragraph, the President relates a story concerning one of the honored federal employees, who suffers from spinal bifida. He notes that this is one of the handicaps afflicting Baby Jane Doe in New York. That case is of course pending on appeal, but I see nothing objectionable in the President's reference.

On page 5, line 4, the remarks refer to a partnership between "the disabled and the abled." The word "abled" does not exist, and while I can let it slip by once in what may

be considered a clever turn of a phrase (p. 1, l. 7), once is enough. I am advised that the handicapped prefer to refer to those who are not as the "temporarily able-bodied," or "TABs" for short. I recommend this change in the attached memorandum, not only out of revulsion at "abled" but also because use of handicapped community jargon adds a nice "Ich bin eine Berliner" touch.

Attachment

THE WHITE HOUSE

WASHINGTON

November 22, 1983

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Remarks: Signing Ceremony for Decade
of Disabled Persons Proclamation

Counsel's Office has reviewed the above-referenced remarks. We question the desirability of mentioning Public Law 94-142 at all (carryover paragraph, pages 2-3). The Administration's proposals concerning this act evoked such a hostile response from the handicapped community -- a response that killed the proposals -- that mere mention of the issue is likely to undermine the tone conveyed by the rest of the remarks. In any event, if the Act is discussed, it should be properly identified as The Education for All Handicapped Children Act of 1975, not The Handicapped Children's Education Act.

On page 5, line 4, we find the use of the word "abled" jarring -- if indeed it is a word. The members of the handicapped community themselves refer to those who are not handicapped not as "abled" but as "temporarily able-bodied," and it might be a nice touch for the President to use this phrase instead of the awkward "abled."

cc: Richard G. Darman

FFF:JGR:aea 11/22/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 22, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: "Queen Nancy" Postcard

Julia Maggs of Culver City, California has written the First Lady's Office to note her objection to a postcard issued by the American Postcard Company, depicting Mrs. Reagan be-decked as a monarch, complete with crown. Maggs suggests that a letter from the White House to the company will cause them to cease producing the distasteful postcard.

Ms. Maggs is new to this country, which may explain her naive assumption concerning the reaction of the American Postcard Company to a letter of complaint from the White House. A company that would produce such a postcard in the first instance is far more likely to double its production after such a complaint and advertise for additional sales of "The Postcard that Shocked the White House." The card itself is probably protected from any legal challenge as parody, and I doubt that we would want to call attention to it by mounting a challenge in any event. In this sensitive area in particular we do not want to be accused of protesting too much. I have drafted a reply to Maggs, and a memorandum to Cathy Fenton advising her of our disposition.

Attachments

THE WHITE HOUSE

WASHINGTON

November 22, 1983

MEMORANDUM FOR CATHY FENTON
OFFICE OF THE FIRST LADY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: "Queen Nancy" Postcard

Attached is a copy of my reply to Julia Maggs, who wrote to object to a tasteless postcard depiction of the First Lady.

FFF:JGR:aea 11/22/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 22, 1983

Dear Ms. Maggs:

Thank you for your letter of November 11 to the First Lady's Office. Along with that letter you enclosed a copy of a postcard depicting the First Lady as "Queen Nancy." You noted that you found the postcard distasteful, and suggested that a letter from the White House to the company responsible for producing the postcard would cause the company to cease issuing it.

It goes without saying that we share your view of the postcard. It is our judgment, however, that complaining to the company involved could well be counterproductive, since any such complaint could be used by the company to publicize its product. Our experience with tasteless endeavors such as this is that it is generally best to ignore them, and trust to the sound judgment and sensibilities of the American people to do the same. We think that the selfless devotion of the First Lady to causes such as the eradication of drug abuse among our Nation's children so easily overshadows the tawdry impressions sought to be conveyed by the postcard that most citizens will share your reaction to it.

Thank you for calling this unfortunate matter to our attention. We appreciate your concern.

Best wishes,

Sincerely,

Fred F. Fielding
Counsel to the President

Ms. Julia Maggs
10873 Galvin Street
Culver City, CA 90230

FFF:JGR:aea 11/22/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 22, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Freedom of Information Act Request
of Robert C. Hahn

A Boston attorney has filed an FOIA request with the Department of Justice for certain documents concerning Indian land claims in New England and New York. In response to the request Justice uncovered in its files a February 9, 1977 letter from Senators Kennedy and Brooke, Speaker O'Neill, and Representative Studds to former President Carter. The letter discusses the problems caused by the pendency of Indian land claim litigation in Massachusetts, and urges the Federal Government to take an active role in achieving an out-of-court settlement. The letter also asks the President to designate a mediator to help resolve the dispute.

There is nothing controversial or sensitive about this letter, which was doubtless released by its signatories when originally sent. I have prepared a memorandum to the inquiring Justice attorney noting that we interpose no objection to release of this document.

Attachment

THE WHITE HOUSE

WASHINGTON

November 22, 1983

MEMORANDUM FOR W. LAWRENCE WALLACE
ACTING SECTION CHIEF, POLICY, LEGISLATION
AND SPECIAL LITIGATION SECTION
LAND AND NATURAL RESOURCES DIVISION, DOJ

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Freedom of Information Act Request
of Robert C. Hahn

You have asked for our views on the proposed release, in response to the FOIA request of Robert C. Hahn, of the February 9, 1977 letter to former President Carter from Senators Kennedy and Brooke, Speaker O'Neill, and Representative Studds. We have no objection to the release of this letter.

FFF:JGR:aea 11/22/83
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 23, 1983

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Tournament of the Roses Parade
(Draft Presidential Tapings)

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by noon today. The brief remarks promote voluntarism, the theme of this year's Rose Bowl parade. I have reviewed the remarks and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

November 23, 1983

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Tournament of the Roses Parade
(Draft Presidential Tapings)

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 11/23/83

bcc: FFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 23, 1983

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Remarks: Signing Ceremony for Decade
of Disabled Persons Proclamation

Counsel's Office has reviewed the above-referenced remarks. We question the desirability of mentioning Public Law 94-142 at all (carryover paragraph, pages 2-3). The Administration's proposals concerning this act evoked such a hostile response from the handicapped community -- a response that killed the proposals -- that mere mention of the issue is likely to undermine the tone conveyed by the rest of the remarks. In any event, if the Act is discussed, it should be properly identified as The Education for All Handicapped Children Act of 1975, not The Handicapped Children's Education Act.

On page 1, line 7 and page 5, line 4, we find the use of the word "abled" jarring -- if indeed it is a word. Saying that the handicapped are "more abled than disabled" conveys the notion that being "abled" is good and disabled is bad -- a view not held by the handicapped, who do not want to be considered not disabled -- "abled" -- but rather capable of doing the same things as those without disabilities. The members of the handicapped community themselves refer to those who are not handicapped not as "abled" but as "temporarily able-bodied." It might be a nice touch for the President to use this phrase instead of the awkward "abled" on page 5. The language on page 1 should be redrafted to avoid what we think will be an offensive dichotomy.

cc: Richard G. Darman

FFF:JGR:aea 11/23/83
bcc: FFFielding/JGRoberts/Subj/Chron