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THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Photo Request

Cliff Dudley, President of New Leaf Press, has written Diane Powers in the Photo Office to request permission to use a color photograph of the President, obtained from the Photo Office, on the cover of a book to be published by New Leaf Press. (White House photographs that have been released into the public domain are available for the asking.) The book, authored by David Lewis and tentatively titled "The Zero Year Curse," concerns "the death of so many of the Presidents who were in office during a Zero Year time."

It is my understanding that we try to discourage such use of photographs of the President, to avoid creating the impression that the President has endorsed or collaborated on the book. The President's photograph often appears on book covers, however, as it did on the cover of the Americans for the Reagan Agenda book, A Time for Choosing. There is little that we can do to actually prevent such use of photographs of the President. In this case, however, New Leaf Press has asked for our affirmative approval, which we should decline to provide, citing the usual concerns.

I would also note that the subject of the book appears to concern President Reagan only tangentially, and that the sloppiness of Dudley's letter suggests that the book itself may be less than a professional effort. A postscript to Dudley's letter notes that Herb Ellingwood "of the President's Council Office" is familiar with New Leaf Press and "could make explanation [sic] for us." I have not discussed this matter with Mr. Ellingwood.

Attachment

THE WHITE HOUSE

WASHINGTON

November 28, 1983

Dear Mr. Dudley:

Thank you for your letter of November 10 to Diane Powers of the White House Photography Office. In that letter you requested permission to use a White House photograph of the President on the cover of a book to be published by your company.

I must advise you that it is established White House policy not to approve such use of White House photographs of the President. This policy is based on concern that the appearance of a White House photograph of the President on a book cover could convey the misleading impression that the President has endorsed or otherwise collaborated on the book. Accordingly, we cannot grant the permission you requested.

I trust you will understand the reasons we must adhere to this policy. Please be assured that our inability to grant you permission to use the White House photograph of the President as you requested is in no sense an adverse reflection on you or New Leaf Press.

Thank you for writing. I am sorry our response could not be more favorable.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Cliff Dudley
New Leaf Press
Post Office Box 1045
Harrison, Arkansas 72601

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

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Proclamation -- Carrier Alert Week

Dodie Livingston requested comments by close of business November 30 on the above-referenced draft proclamation. The proclamation, authorized and requested by S.J. Res. 141, was drafted by the Postal Service and has been approved by OMB. It describes the Carrier Alert Program, under which postal carriers who observe accumulations of mail for elderly or disabled participants alert a designated social service agency, and the agency checks to ensure the well-being of the participant.

I have reviewed the draft proclamation, and have no objection to it.

Attachment

THE WHITE HOUSE

WASHINGTON

November 28, 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 -- Carrier Alert Week

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

FFF:JGR:aea 11/28/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Proclamation: Bill of Rights
Day/Human Rights Day and Week, 1983

Dodie Livingston asked for comments on the above-referenced draft proclamation by close of business December 2. This proclamation kills three birds with one stone, commemorating Bill of Rights Day (December 15), Human Rights Day (December 10), and Human Rights Week (December 10-16). The proclamation, a traditional one without statutory basis, was drafted by the State Department and approved by OMB. It reviews the hopes that underlay the adoption by the United Nations of the Universal Declaration of Human Rights in 1948, and notes how those hopes have been frustrated in the Soviet Union, Poland, and Afghanistan. Specific mention is made of the award of the Nobel Peace Prize to Lech Walesa. I have reviewed the draft proclamation and have no objection to it.

Attachment

THE WHITE HOUSE

WASHINGTON

November 28, 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: Bill of Rights
Day/Human Rights Day and 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 11/28/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 2196 -- Authorization
of Appropriations for the National Historical
Publications and Records Commission

Richard Darman has asked for comments by 10:00 a.m.
November 30 on the above-referenced enrolled bill. The bill would authorize appropriations of \$4 million for the National Historical Publications and Records Commission grant programs for 1984 and 1985 and \$5 million for the next three years. The Commission was established in 1934 and exists to promote collection and publication of historical papers of outstanding citizens.

OMB recommends approval; GSA 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 objection.

Attachment

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2196 -- Authorization
of Appropriations for the National Historical
Publications and Records Commission

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

FFF:JGR:aea 11/28/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 2780 -- Extension
of General Revenue Sharing

Richard Darman has asked for comments by 10:00 a.m. today on the above-referenced enrolled bill. This bill, largely the result of an Administration proposal, would extend general revenue sharing for three years at the currently authorized funding level of \$4.6 billion per year. The bill includes several minor amendments to the revenue sharing scheme, requiring recipients of funds to hold only one hearing on proposed uses instead of two, increasing audit requirements, and mandating a study on several revenue sharing issues.

OMB, Treasury, and the Advisory Commission on Intergovernmental Relations recommend approval; Commerce has no objection and Justice has no comment. I have reviewed the memorandum for the President prepared by OMB Director David Stockman, and the bill itself, and have no objection. This is the third extension of revenue sharing, which was first introduced in 1972. There are those who believe such revenue sharing is unconstitutional, on the theory that the federal government may tax only to obtain funds for national projects, not to act as a collection agent for state and local government. At this point those objections may safely be considered to raise policy as opposed to legal concerns.

Attachment

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2780 -- Extension
of General Revenue Sharing

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

FFF:JGR:aea 11/28/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Enrolled Bill S. 450 -- Mail Order
Consumer Protection Amendments of 1983

Richard Darman has asked for comments by 10:00 a.m. today on the above-referenced enrolled bill. The bill would strengthen the ability of the Postal Service to combat mail fraud in two principal ways: First, the bill would authorize the Service to offer the advertised price for a mail order product and require the seller to sell the product to the Service at that price. Currently the Service must send in an order and wait to receive the product by mail to commence its investigation. Unscrupulous mail order dealers aware of this limitation collect large numbers of orders before sending their product out, and then promptly move and change the name of their firm.

Second, the bill would authorize civil fines of up to \$10,000 per day for violating cease and desist orders under the Act or attempting to evade a mail stop order. Current law only provides criminal penalties and its effectiveness is accordingly limited to the most egregious cases with clear proof.

OMB, the Postal Service, and the Office of Consumer Affairs 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. The memorandum for the President notes that the Office of Consumer Affairs has prepared a signing statement, but we have not as yet been provided with a copy. The attached "no objection" memorandum for Darman accordingly notes that we have not reviewed this statement.

Attachment

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 450 -- Mail Order
Consumer Protection Amendments of 1983

Counsel's Office has reviewed the above-referenced enrolled bill, and finds no objection to it from a legal perspective. We have not yet received and accordingly have not yet reviewed a copy of the signing statement prepared by the Office of Consumer Affairs.

FFF:JGR:aea 11/28/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Signing Statement for Enrolled
Bill S. 450 -- Mail Order Protection
Amendments of 1983

We have now received the proposed signing statement for S. 450, the "Mail Order Consumer Protection Amendments of 1983," and Richard Darman has asked for comments on it by 10:00 a.m. tomorrow. The proposed statement, prepared by the Office of Consumer Affairs, simply reviews the major provisions of the bill. It is rife with technical errors, which I have pointed out in the attached draft memorandum for Darman.

Attachment

THE WHITE HOUSE
WASHINGTON

November 28, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Signing Statement for Enrolled
Bill S. 450 -- Mail Order Protection
Amendments of 1983

Counsel's Office has reviewed the draft signing statement to accompany S. 450, prepared by the Office of Consumer Affairs. We note the following corrections:

- Page 1, line 4: Add "deceptive" between "deter" and "mail." The bill is not intended to "deter mail order schemes," only deceptive ones.

- Page 1, line 12: "civil representation" should be "false representation."

- Page 1, line 20: "shoppers" should be "shoppers'."

- Page 1, lines 25-26: "the existing statutes deterrent effect" should be "the deterrent effect of the existing statute."

- Page 1, line 27: Add "fails to" between "or" and "comply."

- Page 2, line 1: "such" lacks an antecedent. We suggest changing "that such person has offered to provide through the mails" to "offered through the mails."

- Page 2, line 13: Again, add "deceptive" to modify "mail order schemes."

- Page 2, lines 16-19: This sentence is awkward and ungrammatical. We suggest: "Promoting consumer awareness of deceptive mail order schemes is the most effective and least costly means of ending victimization in this area."

FFF:JGR:aea 11/28/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Letter from U.S. Attorney Hinton Pierce

U.S. Attorney Hinton R. Pierce (S.D. GA) has written to pass along a clipping of a newspaper article in which he explained the decision to dismiss federal charges against Charles R. Harris, the individual who disrupted the President's golf match in Augusta. The federal charges were, as you know, dismissed without prejudice to permit prosecution of the more substantial state charges to proceed.

Since this was widely known before receipt of Pierce's letter, I assume his real purpose in writing was to share the joke in the last paragraph. The attached draft acknowledgment lacks a witty rejoinder because I have been unable to think of one. Alternatively, it is probably not necessary to respond to Pierce's letter at all.

Attachment

THE WHITE HOUSE

WASHINGTON

November 28, 1983

Dear Mr. Pierce:

Thank you for your letter and the accompanying newspaper clipping, which explained why federal charges against Charles R. Harris were dismissed without prejudice.

I also appreciate your sharing with me the "real reason" Harris did what he did. I had thought he was just teed off about something.

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Hinton R. Pierce
United States Attorney for the
Southern District of Georgia
Post Office Box 2017
Augusta, Georgia 30903

FFF:JGR:aea 11/28/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Draft Letter Regarding National
Productivity and Innovation Act of 1983

John Svahn has asked you to determine if a letter he and Faith Whittlesey propose to send to the Presidents or Executive Directors of 25 listed business, manufacturing, and electronics associations complies with anti-lobbying restrictions. The letter briefly discusses the main features of the Administration's proposed National Productivity and Innovation Act of 1983, which the President submitted to Congress on September 12.

Two anti-lobbying restrictions are pertinent: the criminal prohibitions in 18 U.S.C. § 1913 (the "Anti-Lobbying Act") and the "publicity or propaganda" appropriations rider, the current version of which is found at sections 601 and 609(a) of the Treasury, Postal Service, and Executive Office of the President appropriations bill, S. 1646 and H.R. 4139. The proposed letter does not appear to present any problems under either of these provisions, as they have been interpreted by the Justice Department's Office of Legal Counsel (OLC).

OLC has interpreted both provisions as limited to overreaching by the Executive Branch in the form of an explicit or implicit campaign to urge members of the public to contact Congressional representatives. See Memorandum to Robert J. Lipshutz from Assistant Attorney General Harmon (November 29, 1977); Memorandum Opinion for the Solicitor, Department of the Interior from Assistant Attorney General Harmon (July 18, 1978). The proposed letter simply conveys the substance of the Administration's proposal; it does not request any action by the recipients. Your memorandum of February 23, 1981 for the White House Staff on this subject states that "it is not improper for an Executive Branch employee to provide legitimate informational background and material to the public in support of an Administration policy effort." That memorandum notes further that Executive Branch officials may, in dealing with independent outside organizations, "make suggestions, respond to or raise particular inquiries, or discuss the merits of various legislative strategies and related matters, so long as the

Executive Branch officials do not suggest organization of grass roots pressure." The proposed letter falls within this area of permitted activity.

I have prepared a memorandum to Svahn for your signature, noting that we have reviewed his proposed letter and have no objection to it.

Attachment

THE WHITE HOUSE

WASHINGTON

November 28, 1983

MEMORANDUM FOR JOHN A. SVAHN
ASSISTANT TO THE PRESIDENT
FOR POLICY DEVELOPMENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Letter Regarding National
Productivity and Innovation Act of 1983

You have asked this office to review a letter on the National Productivity and Innovation Act of 1983 that you and Faith Whittlesey propose to send to the Presidents or Executive Directors of 25 listed business, manufacturing, or electronics associations. We have reviewed the proposed letter and determined that it does not run afoul of the applicable anti-lobbying provisions.

There are two pertinent provisions: the criminal prohibitions of 18 U.S.C. § 1913 (the "Anti-Lobbying Act") and the so-called "publicity or propaganda" appropriations rider. The proposed letter simply conveys information on Administration policies and proposals to groups interested in those policies and proposals, and does not urge the groups or their members to contact Congressional representatives. The letter accordingly does not violate the anti-lobbying provisions, as they have been interpreted by the Department of Justice and this office.

Thank you for raising this question with us.

FFF:JGR:aea 11/28/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Photo Request

You will recall that Cliff Dudley of New Leaf Press asked permission to use a White House photograph of the President on the cover of a book he is publishing. I prepared a letter to Dudley for your signature declining to grant such permission. You asked, however, whether we should do anything with respect to the postscript to Dudley's letter, which noted that Herb Ellingwood was familiar with New Leaf Press.

I do not think we need touch base with Ellingwood before proceeding, since our letter simply applies our established policy and is not based on any peculiarity of New Leaf Press that Ellingwood might be in a position to illuminate or explain. We could advise Ellingwood of our disposition of Dudley's request as a courtesy, and I have attached a draft memorandum for this purpose.

Attachment

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR HERBERT E. ELLINGWOOD
CHAIRMAN, MERIT SYSTEMS PROTECTION BOARD

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Correspondence from Cliff Dudley,
New Leaf Press

I attach for your information only copies of a letter from Cliff Dudley of New Leaf Press, and our reply. Since Mr. Dudley mentioned you in his letter I thought you might be interested in the disposition of his request. As you will see, our established policies did not permit us to grant Mr. Dudley's request for permission to use a White House photograph of the President on the cover of a book New Leaf Press plans to publish.

FFF:JGR:aea 11/29/83
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: FOIA Request for Presidents' Addresses

The FOIA officer at GSA has transmitted a FOIA request GSA received from a Malik Rahman Shabazz, asking for the home addresses of former Presidents Nixon, Ford, and Carter and President Reagan, as well as the addresses of any agents authorized to receive service of process on their behalf. Mr. Shabazz's motives are not revealed in his letter, although apparently he is contemplating a lawsuit of some sort.

I recommend reminding GSA that the White House Office is not subject to the Freedom of Information Act, and should not, in GSA's reply to Shabazz, be portrayed as responding to his FOIA request. I also recommend, however, suggesting to GSA that Shabazz's needs might be met by disclosing to him the business addresses of the four living men who have served as President, and advising him to contact each office concerning arrangements for service of process. Since we know nothing about Shabazz and he has asked for the home addresses of the former Presidents and President Reagan, I also suggest alerting the Secret Service to Shabazz's inquiry, for whatever action they consider appropriate.

Attachments

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR WILLIAM W. HIEBERT
FOIA OFFICER, GENERAL SERVICES ADMINISTRATION

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: FOIA Request From Malik Rahman Shabazz

By memorandum dated November 16 you transmitted to this office an FOIA request directed to the General Services Administration by Malik Rahman Shabazz. The FOIA request sought the home addresses of former Presidents Nixon, Ford, and Carter and President Reagan, and the addresses of any agents appointed to receive service of process for them.

The White House Office is not subject to the Freedom of Information Act, Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980), and accordingly we do not respond to FOIA requests. In your response to Mr. Shabazz, care should be taken not to portray the White House as responding in any way to the FOIA request he filed with GSA. With respect to your reply, Mr. Shabazz may be satisfied with the business addresses only of the three former Presidents and President Reagan. These are:

The Honorable Richard M. Nixon
26 Federal Plaza
New York, New York 10007

The Honorable Gerald R. Ford
Post Office Box 927
Rancho Mirage, California 92270

The Honorable Jimmy Carter
Richard B. Russell Federal Building
75 Spring Street, S.W.
Atlanta, Georgia 30303

The Honorable Ronald Reagan
The President of the United States
Washington, D.C. 20500

Mr. Shabazz should be directed to contact each office for information concerning service of process.

In light of the sensitivity of any request for the home addresses of the former Presidents, we have provided the Secret Service with a copy of Mr. Shabazz's letter, for whatever action they deem appropriate.

FFF:JGR:aea 11/29/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR JOHN J. KELLEHER
LEGAL COUNSEL, U.S. SECRET SERVICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: FOIA Request for Presidents' Addresses

I am forwarding for whatever action you deem appropriate a FOIA request received by GSA from a Malik Rahman Shabazz, asking for the home addresses of former Presidents Nixon, Ford, and Carter and President Reagan. A copy of my memorandum to William Hiebert of GSA is also attached. That memorandum recommends that GSA provide Shabazz only with business addresses.

Attachments

FFF:JGR:aea 11/29/83

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Citizenship Request: Dr. David C. Webb

You will recall that Mrs. David C. Webb wrote the President in an effort to expedite the review of her husband's application for citizenship, which has been pending for over two years without any action by the local INS office. By memorandum dated November 3, you referred Mrs. Webb's correspondence to INS General Counsel Maurice C. Inman, Jr., solely to obtain information to facilitate a response to Mrs. Webb. Inman has now advised us that a review of the records in Dr. Webb's case indicates he will receive his notice to appear for the requisite interview before Christmas 1983, after which he may petition for a court hearing. That hearing will be set for the next available date, probably in February 1984.

I have drafted a reply to Mrs. Webb conveying this information, for your signature. Mrs. Webb's letter asked for a letter from the White House stating that it is in the national interest for her husband to be granted citizenship. We specifically asked Inman in our memorandum for advice concerning any such procedure, but he did not mention the issue in his response. My review of the applicable statutes revealed no such procedure, and I assume Inman failed to discuss it because it does not exist. I recommend simply avoiding the issue in our reply to Mrs. Webb, since it is largely mooted by the imminence of her husband's naturalization.

Attachment

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR MAURICE C. INMAN, JR.
GENERAL COUNSEL
IMMIGRATION AND NATURALIZATION SERVICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Citizenship Request: Dr. David C. Webb

Attached for your information is a copy of my response to Mrs. David C. Webb's letter to the President concerning the citizenship application of her husband. My response is based on the information you provided on this case in your memorandum of November 18.

Thank you for your assistance in this regard.

Attachment

FFF:JGR:aea 11/29/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 29, 1983

Dear Mrs. Webb:

Thank you for your letter to the President concerning the pending citizenship application of your husband, Dr. David C. Webb. We requested information from the Immigration and Naturalization Service (INS) concerning the status of your husband's application. INS advised us that he should receive his notice to come in for an interview before Christmas, 1983, after which he may file his petition in court. According to INS, the court will grant him the next available hearing date, which will probably be in February 1984. This assumes that Dr. Webb has satisfied all of the applicable legal requirements and that his papers are otherwise in order.

I hope this information is helpful. Thank you for writing.

Sincerely,

Fred F. Fielding
Counsel to the President

Mrs. Liliane Webb
626 South 29th Street
Arlington, VA 22202

FFF:JGR:aea 11/29/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: H.R. 2395 -- Wetlands Loan Act Extension

Richard Darman has asked for comments on enrolled bill H.R. 2395 by November 30. This bill, passed by both Houses by voice vote, extends authorization of appropriations under the Wetlands Loan Act for one year and delays for one year the requirement that previous loans under that act be repaid out of the proceeds of the sale of "duck stamps." Loans to acquire wetlands for migratory birds would otherwise expire this year, and previous loans would have to begin to be repaid from the "duck stamps" funds otherwise available to purchase and maintain wetlands. The purpose of the bill is simply to buy time (one year) pending comprehensive review of the wetlands legislative scheme.

OMB and Interior recommend approval; Treasury 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 objection.

Attachment

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 2395 -- Wetlands Loan Act Extension

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

FFF:JGR:aea 11/29/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 29, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Presidential Remarks: Signing Ceremony
for H.R. 2780 -- State and Local Fiscal
Assistance Amendments of 1983 --
Wednesday, November 30, 1983

Richard Darman has asked that comments on the attached remarks be sent directly to Ben Elliott by noon today. The remarks stress the greater responsiveness of state and local government and the role of general revenue sharing in assisting government at those levels. I have reviewed the brief remarks and have no objection to them.

Attachment

THE WHITE HOUSE

WASHINGTON

November 29, 1983

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Remarks: Signing Ceremony
for H.R. 2780 -- State and Local Fiscal
Assistance Amendments of 1983 --
Wednesday, November 30, 1983

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 11/29/83

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 3765 -- Las Vegas
Paiute Trust Lands

Richard Darman asked for comments on the above-referenced enrolled bill by 10:00 a.m. tomorrow. The bill would declare that 3,800 acres of public land in Nevada (valued at \$1.5 million) be held in trust for the Las Vegas Paiute Tribe. The tribe, consisting of 143 members, has no legal claim to the land, but simply wants to expand its economic base. Interior originally opposed the bill, contending that the land should not be transferred without compensation, but now has no objection. OMB recommends approval; Justice and EPA defer to Interior. This bill essentially does nothing more than take money from you, me, and everyone else and give it to 143 people in Nevada (about \$10,000 each), simply because they want it.

I have reviewed the memorandum for the President prepared by OMB's Assistant Director for Legislative Reference James M. Frey, and the bill itself, and have no legal objection.

Attachment

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3765 -- Las Vegas
Paiute Trust Lands

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

FFF:JGR:aea 11/30/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Seal Inquiry

George M. Mahoney, Jr., on behalf of Southern Heritage Prints, has written "to verify permission for the continual use of the Presidential Seal" on two items his company would like to produce. The two items, a memo pad of Presidential quotations and a booklet of Presidential quotations, are described as "companion items" to be added to Southern Heritage's existing "Presidential Series." That existing series includes a folio collection, "Presidents of the United States from the South," which features the Presidential Seal. Mr. Mahoney enclosed with his request a copy of a July 14, 1980 letter from Senior Associate Counsel Douglas B. Huron, granting Southern Heritage permission to use the Seal "in conjunction with a book you are preparing on presidents from the South." The "book" is apparently the folio.

I do not think use of the Presidential Seal on a memo pad with Presidential quotations is permitted under the Executive Order. Section 1(b) of the Executive Order does not apply because (1) the mere presence of a quotation on each piece of paper does not transform the memo pad into "a description or history...of...the Presidency," (2) a memo pad cannot be considered embraced by the terms "encyclopedias, dictionaries, books, journals, pamphlets, periodicals, or magazines," and (3) the appearance of the Seal on each sheet of paper is clearly not "incident to" a historical work, but rather an integral part of the substance of the product itself. Use of the Seal on the covers and title page of a sixty-page collection of Presidential quotations, however, does seem to me to fall within this permitted use. Section 1(b) refers to "pamphlets" as well as books, and I would not want to have to argue that a collection of quotations -- the original source material -- cannot be considered a "description or history" of the Presidency.

Mr. Huron's decision to authorize use of the Seal on Southern Heritage's folios strikes me as a close call, but in the interests of stare decisis we should probably not

revisit it. We should, however, object to the use of the Seal on Southern Heritage's promotional material (see yellow tag), and the attached draft letter to the company does so.

Attachment

THE WHITE HOUSE

WASHINGTON

November 30, 1983

Dear Mr. Mahoney:

Thank you for your letter of November 21, requesting permission to use the Seal of the President on each sheet of a 100-sheet memo pad of Presidential quotations and on the covers and title page of a booklet of Presidential quotations. These items will be marketed at Presidential libraries, museums, and other locations.

Title 18 of the United States Code, Section 713 generally prohibits use of the Seal of the President except in accordance with regulations promulgated by the President. These regulations are embodied in Executive Order 11649. A copy of the statute and implementing regulations is enclosed for your information.

Use of the Seal on the covers and title page of your planned booklet of Presidential quotations appears to fall within subsection 1(b) of the Executive Order, and therefore would be permissible so long as the Seal is not used in such a manner as to suggest sponsorship or approval by the Government in violation of 18 U.S.C. § 713(a). This would depend on such details as the appearance of the covers and title page and the presence of other identifying information indicating that the booklet was not produced by the Government.

Use of the Seal on the memo pad, however, does not fall within any of the permitted uses in the Executive Order. Memo pads cannot be considered "encyclopedias, dictionaries, books, journals, pamphlets, periodicals, or magazines;" reproduction of the Seal on each sheet of the memo pad cannot be considered use of the Seal "incident to" a description or history of the Presidency; and the memo pad cannot be considered such a "description or history" simply because each sheet contains a Presidential quotation. We must accordingly decline to grant you permission to use the Seal on the memo pads.

I should also point out that the Seal may not be used in promotional materials. The permission you received in 1980 to use the Seal "in conjunction with a book you are preparing on presidents from the South" was limited to that specific use, and did not authorize use of the Seal in

advertising circulars. In this regard we must object to the appearance of the Seal at the top center of your "Presidential Series" order form.

Thank you for your inquiry. Should you have any further questions please do not hesitate to write.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. George M. Mahoney, Jr.
Southern Heritage Prints
Post Office Box 503
Huntsville, Alabama 35804

Enclosure

FFF:JGR:aea 11/30/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: "Christian Science Monitor" Questions
Regarding Anti-Drugs

David Willis of the Christian Science Monitor has submitted five questions on drug abuse for the President, and we have been asked to comment by 5:00 p.m. November 30 on the draft answers prepared by Carlton Turner's office. The proposed responses to questions 1-3 and 5 are unobjectionable. Question 4 asks if the President sees a communist-inspired effort in Cuba and behind the Iron Curtain to weaken America's youth through drugs. The proposed response is not responsive at all but discusses permissive theories of child-rearing. Turner's theory was probably to make the child-rearing point somewhere, whether the question was asked or not, but making it in response to this question is bizarre and may be misinterpreted as suggesting that certain child psychologists were communists. In addition, DEA Administrator Francis Mullen testified on May 12 that "When we examine the total amount of intelligence and evidence that is available from the 1970's, the Guillot investigation and its follow-up, and new intelligence now being developed, it is difficult not to believe that the Government of Cuba remains cognizant of the movement of drugs through its territory, and may be facilitating this movement." I see no reason for the President not to say as much. The attached draft memorandum for Darman contains a suggested substitute answer to question 4.

Attachment

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: "Christian Science Monitor" Questions
Regarding Anti-Drugs

Counsel's Office has reviewed the above-referenced proposed responses to the Christian Science Monitor questions on drug abuse. We consider the bulk of the answer to question four to be nonresponsive. A discussion of theories of child-rearing in response to a specific question concerning communist-inspired efforts to promote drug abuse in the United States could easily be misinterpreted as a comment on the ideological leanings of child psychologists. In addition, evidence does exist to support a more direct response. On May 12, 1983, Francis Mullen, the Administrator of the Drug Enforcement Administration, testified that "When we examine the total amount of intelligence and evidence that is available from the 1970's, the Guillot investigation and its follow-up, and new intelligence now being developed, it is difficult not to believe that the Government of Cuba remains cognizant of the movement of drugs through its territory, and may be facilitating this movement." Unless something has happened in the interim to call this conclusion into question, we see no reason the President should not discuss it.

We suggest the following version of the answer to question four:

There is evidence that many people in our country and overseas have tried to profit from the illegal drug trade. It is not always easy to tell whether they are motivated purely by greed or have some other purpose as well. Those officials directly involved with our drug enforcement effort have stated that the evidence suggests the Government of Cuba is turning a blind eye to the movement of drugs through its territory and may be facilitating this movement. As a general matter I'm sure those who oppose us are enjoying our frustrating moments as we try to undo the harm that has been done.

FFF:JGR:aea 11/30/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Henry Berliner Correspondence
Concerning Barbados

When we discussed the Henry Berliner correspondence concerning law enforcement assistance to Barbados and the U.S. - Barbados tax treaty, you requested that I consult with the State Department to determine the feasibility of pursuing these questions. The significant point about the termination of the tax treaty is that it is part of an across-the-board decision to terminate all of a certain class of tax treaties dating back to British colonial days. Some 23 countries are involved, in the Carribean and Africa. The decision to terminate these treaties was made and formally announced, after consultation with Congress, over one year ago. By the terms of the treaties the effectiveness of the termination was delayed until January 1, 1984. Treasury was the moving force behind the decision, arguing that the colonial era treaties were outdated and were facilitating tax avoidance.

There was a dispute between U.S. and Barbadian officials over which side was responsible for the delay in commencing negotiations on a new treaty. Those negotiations are now scheduled to begin in Washington on December 19. Even if the negotiations move quickly there will inevitably be a treaty "gap" of six months to one year.

The Treaty Section of the Legal Adviser's Office at State is reluctant to rescind the notice of termination with respect to Barbados, because of the impact such a decision could have on negotiations with the 22 other affected nations. If Barbados is granted a reprieve it would be difficult to deny one to each of the other countries that find themselves in the same boat. And the other 22 countries are in the same boat: no new treaties have yet been negotiated, so the "gap" problem exists across the board. State attorneys also expressed concern about rescinding the notice of termination after consulting with and advising the Senate of the decision to terminate the treaties. Treasury is opposed to rescinding the notice of termination because it views the "gap" problem as providing valuable leverage in the negotiations for new treaties. At least with respect to

Barbados, however, Treasury has already agreed to make the provisions of any new tax treaty retroactive to January 1, 1984, which should somewhat ease the "gap" problems.

With respect to police training, Mr. Berliner is correct that section 660 of the Foreign Assistance Act, 22 U.S.C. § 2420, limits our efforts by providing that foreign assistance funds generally may not be used "...to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government...." This whole area has of course been rather dramatically overtaken by events. Police training is now a critical issue, with the most significant initiative involving increased British aid to a police training center in Barbados, in which we do not (and by law cannot) participate. Extra slots for Grenadians are promised at this center, which it is hoped will help develop the core of a larger and more sophisticated Grenadian police force.

Let me know what further action, if any, you want on these matters.

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Enrolled Bill S. 1341 -- Education of the
Handicapped Act Amendments of 1983

Richard Darman has asked for comments on the above-referenced enrolled bill by 10:00 a.m. tomorrow. As the Administration recommended, the bill will extend the grant programs of the Education of the Handicapped Act for an additional three years. Over the Administration's objections, however, the bill will impose a wide variety of onerous data gathering, evaluation, and reporting requirements on the Department of Education. There is an unusual provision in the bill, § 6, that would prohibit the Secretary from issuing regulations under the Act that "would procedurally or substantively lessen the protections provided to handicapped children under this Act, as embodied in regulations in effect on July 20, 1983...except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation." The Secretary is also required to consult with panels of outside experts before making grants under the Act.

OMB and Education recommend approval; Justice has no comment. I have reviewed the memorandum for the President prepared by OMB Director David A. Stockman, and the bill itself, and have no legal objection. Difficult questions may arise in interpreting the "freezing" provision, § 6, but objections to that provision do not justify overriding the decisions of the affected agencies to continue the grant program under this Act.

Attachment

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 1341 -- Education of the
Handicapped Act Amendments of 1983

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

FFF:JGR:aea 11/30/83
cc: FFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

"Queen Nancy" Postcard

As you directed, I have prepared a draft objecting to this postcard. The draft was not easy to prepare because, as I indicated in my original memorandum, I do not believe we have any legal recourse to stop publication of the postcard. There is case law that would prevent use of a photograph of Mrs. Reagan for advertising purposes, but that is not what is involved here. There is no doubt that postcards of Mrs. Reagan can be produced without her permission; a parody -- as this obviously is -- would seem to enjoy the same protection. For these reasons my draft stops short of explicitly questioning the legality of the postcard.

New drafts to Cathy Fenton and Mrs. Maggs are also attached.

Attachment

THE WHITE HOUSE

WASHINGTON

November 30, 1983

MEMORANDUM FOR CATHY FENTON
OFFICE OF THE FIRST LADY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: "Queen Nancy" Postcard

You referred to this office a letter from Julia Maggs, complaining about a tasteless postcard depicting the First Lady as "Queen Nancy." Attached is a copy of my reply to Ms. Maggs as well as a copy of a letter I wrote to the President of the American Postcard Company, Inc., which published the postcard.

Attachment

FFF:JGR:aea 11/30/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 1, 1983

Dear Mr. Dudley:

A citizen complaint has alerted us to the existence of your postcard entitled "Queen Nancy." This postcard is a montage of the First Lady's face pasted onto a body of a queen, with a crown. Needless to say, we share the view of the citizen who complained to us that the postcard is in extremely poor taste.

Quite apart from questions of taste, your knowing publication, distribution, and sale of a false representation of the First Lady raise serious concerns. Creating and publishing such a false representation exceeds the appropriate bounds of even the broadest conception of "humor" or commentary. Certainly Mrs. Reagan's activities in such areas as promoting the Foster Grandparents Program or combatting drug abuse among our Nation's youth have subjected her to some publicity, but her prominence hardly confers a license for the deliberate doctoring of photographs to present her as she has never appeared in reality.

We are deeply offended by the postcard and disappointed that your company would include such an item among its products.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. George Dudley
President, American
Postcard Company, Inc.
285 Lafayette Street
New York, New York 10012

FFF:JGR:aea 12/1/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 1, 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. Enclosed for your information is a copy of a letter I wrote to the President of the American Postcard Company, Inc., which published the offending postcard. I do not know if this letter will produce the desired result, but at least the company will not be in doubt as to our views on this subject.

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 12/1/83
bcc: FFFielding/JGRoberts/Subj/Chron