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# WITHDRAWAL SHEET

## Ronald Reagan Library

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59IGP

| DOC NO | Doc Type | Document Description                                   | No of Pages | Doc Date  | Restrictions |     |
|--------|----------|--|-------------|-----------|--------------|-----|
| 1      | MEMO     | ROBERTS TO HAUSER RE<br>AMBASSADOR TO NORWAY (PARTIAL) | 1           | 7/10/1984 | B6           | 829 |

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]

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

THE WHITE HOUSE

WASHINGTON

July 2, 1984

MEMORANDUM FOR RICHARD A. HAUSER.

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Op-Ed Draft Concerning Supreme Court's  
Decision in Memphis Firefighters v. Stotts  
by Brad Reynolds

Richard Darman has now asked for comments by 5:00 p.m. today on the draft op-ed piece by Brad Reynolds on Memphis Firefighters v. Stotts. You will recall that we received a copy of the draft when the Deputy Attorney General sent it to Fuller. I reviewed the draft at that time, and you signed a memorandum for Fuller advising him that we had no legal objection to the piece.

Steve Galebach, the acting Mike Uhlmann, discussed the piece with me this afternoon. He thinks it would be better, in the paragraph beginning on page 2, to clarify our position on the issues unresolved by Stotts. The paragraph in question notes that Stotts does not affect affirmative action outreach programs or certain types of affirmative action quotas. As written, the draft does not make clear that we support the former and oppose the latter. The last sentence on the page is particularly confusing, since "such arrangements" could refer to outreach programs, quotas, or both. (I assume it is intended to refer only to quotas.)

The attached draft for Darman notes, as the memorandum for Fuller did, that we have no legal objection. It goes on, however, to suggest adding a discussion of the sort outlined above.

Attachment

July 2, 1984

MEMORANDUM FOR RICHARD G. DARNAN,         
ASSISTANT TO THE PRESIDENT

FROM:               RICHARD A. HAUSER  
                    DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT:           Op-Ed Draft Concerning Supreme Court's  
                    Decision in Memphis Firefighters v. Stotts  
                    by Brad Reynolds

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

We do, however, recommend revising the full paragraph on page 1. As written, the paragraph makes the valid point that affirmative action outreach and recruitment programs and certain types of quotas are unaffected by Stotts. The point should also be made that we fully support affirmative action outreach and recruitment programs, and oppose quotas. Without such a statement at this point in the piece, the reader could be left with the impression that the Administration is ambivalent about affirmative action outreach and recruitment programs or with the equally erroneous impression that we support certain types of racial quotas. The Administration opposes quotas, even those unaffected by Stotts.

The last sentence on page 1 should be changed so it is clear that 'such arrangements' refers to quotas only and not outreach or recruitment programs. The sentence could be read to suggest the latter are subject to constitutional challenge, which is not the case.

RAH:JGR:aea 7/2/84  
cc: FFFielding/RAHauser/JGRoberts/Subj/Chron.

THE WHITE HOUSE  
WASHINGTON

July 2, 1984

MEMORANDUM FOR RICHARD A. HAUSER.

FROM:

JOHN G. ROBERTS 

SUBJECT:

Draft Proclamation: National Duck Stamp  
Week and Golden Anniversary Year of the  
Duck Stamp

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Dodie Livingston has requested comments on the above-referenced draft proclamation by 6:00 p.m. today. The proclamation, authorized and requested by S.J. Res. 270, designates this week as National Duck Stamp Week and this year as the Golden Anniversary Year of the Duck Stamp. The proclamation, proposed by Interior, stresses the ecological importance of wetlands and the success of the duck stamp program in providing funds to purchase wetlands. The proclamation has been approved by OMB.

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

Attachment

THE WHITE HOUSE  
WASHINGTON

July 2, 1984

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

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Draft Proclamation: National Duck Stamp  
Week and Golden Anniversary Year of the  
Duck Stamp

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


RAH:JGR:aea 7/2/84  
cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 2, 1984

MEMORANDUM FOR THE FILES

FROM: JOHN G. ROBERTS 

SUBJECT: U.S. Delegation to Guatemalan  
Elections/John Carbaugh

After discussing this matter with Mr. Hauser, I advised Kimmitt and Tad Tharp that Counsel's Office had no legal objection to Mr. Carbaugh observing the Guatemalan elections, so long as he refrained from any business dealings during his visit to observe the elections. Mr. Hauser and I concluded that merely observing the electoral process in no way presented a conflict with Mr. Carbaugh's business dealings.

THE WHITE HOUSE

WASHINGTON

July 2, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Enrolled Resolution S.J. Res. 303  
National Drunk and Drugged Driving  
Awareness Week

Richard Darman has asked for comments on the above-referenced enrolled resolution by close of business today. The resolution calls upon the President to issue a proclamation designating the week of December 9-15 as "National Drunk and Drugged Driving Awareness Week." The resolution passed both Houses by voice vote. OMB, Transportation, and HHS recommend approval. I have reviewed the memorandum for the President prepared by OMB Acting Assistant Director for Legislative Reference Naomi R. Sweeney, and the resolution itself, and have no objections.

Attachment



THE WHITE HOUSE

WASHINGTON

July 2, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Resolution S.J. Res. 303  
National Drunk and Drugged Driving  
Awareness Week

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

RAH:JGR:aea 7/2/84

cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 2, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Enrolled Resolution S.J. 150  
Coast Guard Day

Richard Darman has asked for comments on the above-referenced enrolled resolution by close of business today. The resolution reviews the contributions of the Coast Guard and calls upon the President to issue a proclamation designating August 4 as "Coast Guard Day." The resolution passed both Houses by voice vote. OMB, Transportation, and Defense recommend approval. I have reviewed the memorandum for the President prepared by OMB Acting Assistant Director for Legislative Reference Naomi R. Sweeney, and the resolution itself, and have no objections.

Attachment

THE WHITE HOUSE  
WASHINGTON

July 2, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Resolution S.J. 150  
Coast Guard Day

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

RAH:JGR:aea 7/2/84

cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 2, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS 

SUBJECT:

Enrolled Resolution S.J. 278  
100th Anniversary of the Bureau  
of Labor Statistics

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Richard Darman has asked for comments on the above-referenced enrolled resolution by close of business today. The resolution praises the contributions of the Bureau of Labor Statistics throughout its 100-year history. The resolution does not request a Presidential proclamation, but simply commends the BLS for its history of service. The resolution passed both Houses by voice vote. OMB and Labor recommend approval. I have reviewed the memorandum for the President prepared by OMB Acting Assistant Director for Legislative Reference Naomi R. Sweeney, and the resolution itself, and have no objections.

Attachment

THE WHITE HOUSE  
WASHINGTON

July 2, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Resolution S.J. 278  
100th Anniversary of the Bureau  
of Labor Statistics

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

RAH:JGR:aea 7/2/84

cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 3, 1984

MEMORANDUM FOR RICHARD A. HAUSER.

FROM:

JOHN G. ROBERTS 

SUBJECT:

Presidential Remarks: Anniversary  
of Duck Stamp Program

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by 9:00 a.m. today. The remarks praise the duck stamp program, and its creator, cartoonist Ding Darling. I have reviewed the remarks and have no objections. The tone of the remarks suggests a reference to the golden anniversary of Donald Duck would not, after all, be appropriate.

Attachment

THE WHITE HOUSE  
WASHINGTON

July 3, 1984

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

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Remarks: Anniversary  
of Duck Stamp Program

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

cc: Richard G. Darman.


RAH:JGR:aea 7/3/84  
bcc: FFfielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 3, 1984

MEMORANDUM FOR RICHARD A. HAUSER.

FROM: JOHN G. ROBERTS 

SUBJECT: S. 2403 -- Pueblo De Cochiti  
Trust Lands (Indians)

Richard Darman has asked for views on the above-referenced enrolled bill by close of business Thursday, July 5. The bill would transfer 25,000 acres of land owned by the United States in New Mexico to the United States in trust for the Pueblo de Cochiti Indians. The transfer is based on a historic but legally unenforceable claim by the Pueblos to the land. The Indians bought the land from a Spanish owner in 1744, then sold it to another Spaniard in 1805, when Spain still controlled the area. In 1817 the Indians petitioned Spain to restore the land to them, claiming they only sold under duress. A Spanish court agreed, in 1818, but the document nullifying the sale was lost until 1979. In the meantime, the United States acquired New Mexico, and in 1913 a New Mexico state court upheld the 1805 sale. The Indians could not prove their claim that the sale was invalid because they did not have the 1818 decree.

Agriculture recommends a veto, arguing that the United States purchased the land for value in good faith, and that the United States was in no way involved in the fraudulent 1805 sale. Agriculture also notes that several other Indian claims are pending in New Mexico, and fears that approval of this bill will set a bad precedent.

OMB and Interior urge approval, contending that if the Indians had been aware of the 1818 decree their title would have been confirmed. That's like saying if my aunt were a man, she'd be my uncle. Nonetheless, if OMB wants to give away \$7.5 million worth of Federal land, there is no legal bar to its doing so. Agriculture's concern about setting a worrisome precedent seems strained, given specific language in the Senate report that no new precedent is being set and the rather sui generis nature of this claim.

As noted, Agriculture recommends disapproval; OMB and Interior recommend approval. Justice, Energy, and the Corps of Engineers have no objection. I see no legal objection our office may suitably interpose.



THE WHITE HOUSE

WASHINGTON

July 3, 1984

MEMORANDUM FOR RICHARD G. DARMAN, ~~107~~  
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: S. 2403 -- Pueblo De Cochiti  
Trust Lands (Indians)

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

RAH:JGR:aea 7/3/84

cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 3, 1984

MEMORANDUM FOR RICHARD A. HAUSER.

FROM:

JOHN G. ROBERTS 

SUBJECT:

Enrolled Resolution H.J. Res. 604  
African Refugees Relief Day

Richard Darman has asked for comments on the above-referenced enrolled resolution by close of business Thursday, July 5. The resolution reviews the plight of the four million African refugees, and requests that the President issue a proclamation designating July 9 as "African Refugees Relief Day." July 9 is the opening day of the Geneva conference on African refugees, which the Attorney General is attending. The resolution passed both Houses by voice vote. OMB and State both recommend approval. I have reviewed the memorandum for the President prepared by OMB Acting Assistant Director for Legislative Reference Naomi R. Sweeney, and the resolution itself, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

July 3, 1984

MEMORANDUM FOR RICHARD G. DARMAN.      105  
ASSISTANT TO THE PRESIDENT

FROM:                RICHARD A. HAUSER  
                      DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT:            Enrolled Resolution H.J. Res. 604  
                      African Refugees Relief Day

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

RAH:JGR:aea 7/3/84

cc: FFFielding/RAHauser/JGRoberts/SUbj/Chron

THE WHITE HOUSE

WASHINGTON

July 3, 1984

MEMORANDUM FOR RICHARD A. HAUSER.

FROM:

JOHN G. ROBERTS 

SUBJECT:

Presidential Radio Talk: Crime

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by noon today. The remarks take some credit for the recent drop in crime, focusing on the appointment of sensible judges, the anti-drug initiatives, and (as in any remarks drafted by Dolan) the organized crime initiatives. The remarks then discuss the legislative proposals bottled up in the House, and urge listeners to let their representatives know how they feel about them. This last section seems consistent with the interpretations of the anti-lobbying provisions by the Justice Department and our office. Justice has consistently advised us that those provisions do not restrict such expressions by the President.

In the last line on page 1, "justices" should be changed to "judges." The last sentence in the second full paragraph on page 2 also needs to be changed. The resolution according subpoena power to the Organized Crime Commission has already passed Congress, and is awaiting enrollment. We cannot announce that we will sign the resolution, since we should never make such statements until the resolution has been through the formal clearance process. Accordingly, I recommend simply dropping "from the Congress," so the sentence does not read as a prod to Congressional action that has already taken place.

Attachment

THE WHITE HOUSE

WASHINGTON

July 3, 1984

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

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Radio Talk: Crime

Counsel's Office has reviewed the above-referenced draft remarks. In the last line on page 1, "justices" should be changed to "judges." On page 2, line 19, "from the Congress" should be deleted. Congress has in fact already passed the resolution granting the Commission subpoena power; the resolution has, however, not yet been enrolled and formally sent to the President. We should not announce that the President will sign the resolution, until it has been through the formal clearance process. Dropping "from the Congress" at least removes the impression that we are awaiting further substantive Congressional action.

cc: Richard G. Darman

RAH:JGR:aea 7/3/84


bcc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 6, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Presidential Taping: National Association of Counties -- Monday, July 9, 1984

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by noon today. The brief remarks discuss the economic expansion and promise continued consultation with the National Association of Counties on review of the tax system and general revenue sharing. The President expresses his support for a balanced budget amendment, line item veto authority, and antitrust immunity for local governments. I have reviewed the remarks and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

July 6, 1984

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

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Taping: National  
Association of Counties -- Monday,  
July 9, 1984

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

cc: Richard G. Darman

RAH:JGR:aea 7/6/84

bcc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 6, 1984

MEMORANDUM FOR MICHAEL E. BAROODY  
DEPUTY ASSISTANT TO THE PRESIDENT  
DIRECTOR, PUBLIC AFFAIRS

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Briefing Paper for Lunch With Regional  
Editors Concerning Domestic Issues

Counsel's Office has reviewed the above-referenced briefing papers. The last bullet item in the civil rights enforcement paper is inaccurate and should be deleted. According to the Justice Department, this Administration has not filed more school desegregation cases than the previous one. The Education Department may have filed more administrative actions, but that is not what is usually meant by desegregation cases. Also attached is a briefing paper on the recent Supreme Court criminal law decisions, which your office requested that we prepare.

Attachment

cc: Richard G. Darman

RAH:JGR:aea 7/6/84

bcc: FFFielding/RAHauser/JGRoberts/Subj/Chron



THE WHITE HOUSE

WASHINGTON

July 6, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Briefing Paper for Lunch With Regional  
Editors Concerning Domestic Issues

Richard Darman has asked that comments on a series of briefing notes for the President be sent directly to Mike Baroody as soon as possible. I have reviewed the various briefing papers -- on the economic recovery, the environment, civil rights enforcement, and steel imports -- and have only one objection. The last item in the civil rights paper contends that this Administration has filed more school desegregation cases than the previous one. According to the Justice Department, this is inaccurate. Using June 1980 and June 1984 as the cut-off points, the Carter Administration filed 12 complaints to our 4, 20 motions to our 3, and obtained 13 consent decrees to our 21. The Education Department may well have initiated more administrative actions, but that is not what most people think of as "cases."

In view of the time demands, I have already communicated this objection to Baroody's office, and they have agreed to delete the item. As I advised you earlier, Baroody's office also asked for a page on recent Supreme Court criminal law decisions. The page I provided them is attached.

Attachments

RECENT SUPREME COURT DECISIONS  
IN CRIMINAL LAW AREA

Note: In recent weeks the Supreme Court has issued several decisions cutting back on some of the protections for criminal defendants imposed by the Warren Court. In three of the most prominent of these decisions the Court adopted the "reasonable good faith" exception to the exclusionary rule for searches conducted pursuant to a warrant later found to be invalid, ruled that in emergency situations police need not give Miranda warnings before asking the suspect questions to solve the emergency, and ruled that illegally seized evidence could be admitted at trial if the evidence would inevitably have been discovered by legal means.


- o The Administration is pleased with these decisions, which are helping to restore balance to a criminal justice system that had become tilted too heavily in favor of the rights of the accused at the expense of the rights of the innocent.
- o These decisions should not be seen as defeats for civil liberties. On the contrary, they promote the most basic civil liberty of all -- the right of the innocent to be protected from those who would prey upon them.
- o In many of those cases the Supreme Court agreed with the arguments presented by our Justice Department. We will continue to advocate positions in court that promote effective law enforcement without infringing on the basic civil liberties all Americans hold dear.
- o It is still necessary for Congress to act on our crime package. The Court's recent decisions, important as they are, do not begin to solve all of the problems in this area. The Court is acting responsibly; it is time for the House to do the same.

THE WHITE HOUSE

WASHINGTON

July 6, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Civil Aeronautics Board Decision:  
Aerial Transit Company

Richard Darman's office has asked for comments by close of business July 11 on the above-referenced CAB decision, which was 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 this case, by July 20).

The order here has 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 this order involves a domestic carrier, 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 order issues a certificate authorizing Aerial Transit to carry property and mail between specified points in the Caribbean and the United States.

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

Attachment

THE WHITE HOUSE

WASHINGTON

July 6, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision:  
Aerial Transit Company

Our office has reviewed the above-referenced CAB decision 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 this order or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

RAH:JGR:aea 7/6/84  
cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 9, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Enrolled Resolution H.J. Res. 548 --  
Subpoena and Related Authorities for the  
President's Commission on Organized Crime

Richard Darman has asked for comments on the above-referenced enrolled resolution by close of business today. This resolution, supported by the Administration, would authorize the President's Commission on Organized Crime to administer oaths and receive evidence, issue subpoenas enforceable in court upon application of the Attorney General, and issue writs of habeas corpus ad testificandum upon application of the Attorney General. The resolution also would grant the Commission and Commission staff access to Title III wiretaps, to the extent Federal or state and local law enforcement officials are willing to grant such access. Specifically, section 6(b) of the resolution provides that Commission members and staff are "investigative or law enforcement officers" for purposes of 18 U.S.C. § 2517. That section in turn provides that an investigative or law enforcement officer may disclose the contents of a Title III wiretap to another investigative or law enforcement officer. The net effect is that disclosures of such material may be made to the Commission or its staff -- not must be made. In addition, the resolution goes on to require that the Attorney General or his designee, in the case of a Federal wiretap, or the appropriate state official, in the case of a state or local wiretap, have an opportunity to determine that disclosure may jeopardize law enforcement interests, and have not made that determination.

The resolution defines the Commission as an agency for purposes of 18 U.S.C. §§ 6001-6005, authorizing it to compel testimony over a Fifth Amendment claim through a grant of immunity, and provides that 18 U.S.C. §§ 111 and 1114 apply to conduct directed against Commission members or staff. Those sections make it a Federal criminal offense to take certain actions against a U.S. attorney. The resolution also authorizes the Commission to adopt rules for the conduct of its business.

The resolution passed both Houses by voice vote. OMB and Justice recommend approval; GSA has no objection; OPM has no comment. Our office has been concerned in the past about the powers of this Commission, but there appear to be sufficient safeguards in this resolution. In particular, law enforcement authorities retain the right to deny the Commission access to wiretap information, and subpoenas can only be enforced by a court order upon application of the Attorney General. In light of these safeguards, I have no objection to adding these arrows to Commissioner Kaufman's quiver.

Attachment

THE WHITE HOUSE

WASHINGTON

July 9, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Resolution H.J. Res. 548 --  
Subpoena and Related Authorities for the  
President's Commission on Organized Crime

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

FFF:JGR:aea 7/9/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: President's Article

Attached is a memorandum for Darman requesting such staffing as he considers appropriate for our draft article on the Presidency. Unless deadlines have slipped a bit (as they invariably do in this sort of endeavor), we must submit any changes to the editors by Friday. Accordingly, the memorandum for Darman requests any comments by noon Thursday. If anyone has serious objections to the draft, we can put off the Friday deadline.

Attachment



THE WHITE HOUSE

WASHINGTON

July 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: President's Article

The attached draft article has been submitted on behalf of the President for inclusion in the upcoming issue of National Forum magazine devoted to the bicentennial of the Constitution. The issue will contain articles on the Constitution by scholars and statesmen, including an article on the Supreme Court by the Chief Justice, one on the Congress by the Speaker of the House, and the instant article on the Presidency by the President. I would appreciate whatever staffing of the article you consider appropriate. Our office must provide final comments to the editors by Friday, so we would appreciate any suggestions by noon Thursday. Many thanks.

FFF:JGR:aea 7/10/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE  
WASHINGTON

July 10, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Nomination of Robert D. Stuart, Jr.,  
to be Ambassador to Norway

I have reviewed the SF-278 and related materials submitted by Robert D. Stuart, Jr., in connection with his prospective nomination to be Ambassador to Norway. Mr. Stuart, former Chairman of the Board and now Chairman of the Finance Committee of The Quaker Oats Company, has extensive financial holdings and vested rights in several Quaker Oats programs.



Attachment

COPY - Reagan Presidential Record

b6

THE WHITE HOUSE

WASHINGTON

July 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 4616 -- Minimum  
Drinking Age, Drunk Driving, and  
Other Highway Safety Amendments

Richard Darman has asked for comments on the above-referenced enrolled bill by close of business Wednesday, July 11. The bill seeks to impose a national 21-year-old minimum drinking age by reducing certain highway funds for states that do not enact a 21-year-old minimum drinking age law. If a state does not enact such a law by FY 1987, it will lose five percent of its highway funds, and an additional ten percent the next year if it has still not raised its drinking age to 21. The penalties would lapse after FY 1988, and if a state raised its drinking age to 21 thereafter it could reclaim the previously withheld funds.

The bill would also award "incentive grants" to states that enact tougher drunk driving laws meeting specified standards (including mandatory license suspension of 90 days and 100 hours of community service or 48 hours in jail for a first offense). The bill increases authorizations for Federal highway safety grants, and requires that states spend at least eight percent of such grants in FY 1985 and 1986 on automobile child restraint programs. Another grant provision would encourage states to develop a comprehensive recordkeeping system on traffic accidents.

The Administration supported this bill, which quickly passed both Houses by voice vote. OMB, Transportation, and HHS recommend approval; Justice defers. The memorandum from Stockman indicates that Transportation has submitted a signing statement, but we have not yet been blessed with a copy.

Attachment

THE WHITE HOUSE

WASHINGTON

July 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4616 -- Minimum  
Drinking Age, Drunk Driving, and  
Other Highway Safety Amendments

Counsel's Office has reviewed the above-referenced enrolled bill, and finds no objection to it from a legal perspective. We have not yet seen a copy of the Transportation signing statement and accordingly are unable at this time to comment upon it.

FFF:JGR:aea 7/10/84

cc: FFFielding/JGRoberts/Subj/chron

THE WHITE HOUSE

WASHINGTON

July 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Enrolled Bill H.R. 3169 -- Renewable  
Energy Industry Development Act

Richard Darman has asked for comments on the above-referenced enrolled bill by 5:00 p.m. Wednesday, July 11. This bill requires the Secretary of Commerce to conduct an evaluation of the domestic renewable energy industry and establish a program for enhancing commerce in renewable energy technologies. He must report to Congress on these matters by May 31, 1985. The bill also establishes an interagency working group, chaired by the Secretary of Energy, to coordinate Federal activities affecting commerce in the renewable energy area.

The bill passed both Houses by voice vote, despite Administration opposition based on the view that it was unnecessary. Since the bill requires little more than is already being done, OMB, State, and Energy recommend approval. Commerce, USTR, and Treasury have no objection. No bill that mandates particular studies and reports to Congress is desirable, but the affected agencies in this case report that they are already doing what the bill requires. Accordingly, I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

July 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3169 -- Renewable  
Energy Industry Development Act

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

FFF:JGR:aea 7/10/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 5653 -- Energy and  
Water Development Appropriation Bill, 1985

Richard Darman has asked for comments on the above-referenced enrolled bill by close of business Wednesday, July 11. The bill provides spending authority of some \$17.1 billion for energy and water programs in the Departments of Energy, Interior, and Defense, and various independent agencies. Our office is of course in no position to express any views on the appropriate funding levels for these activities. My review of the bill has, however, disclosed a constitutionally objectionable provision. Section 116 of the bill provides that "Subject to approval by the Committees on Appropriations, funds herein or hereafter provided may be used [to acquire and maintain residences for Corps of Engineers Division Commanders in areas where appropriate housing is not otherwise available]." The requirement that approval of the Committees on Appropriations be obtained prior to the exercise of specific spending authority is an unconstitutional legislative veto. Under Section 116, action by a mere committee of either House is given legal effect, contrary to the ruling in INS v. Chadha that Congress can only affect substantive legal rights by complying with the constitutional requirements for legislation.

The President should note his objection to this provision in a signing statement. Under INS v. Chadha, whether the authority exists to expend funds for the purposes described in Section 116 will hinge on whether the unconstitutional requirement of committee approval is severable. I have alerted Justice to this problem and have been advised that they will prepare and submit a draft signing statement addressing Section 116.

I have no other legal objections. Section 504, a boilerplate provision specifying that funds may not be used to implement regulations disapproved "pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States" is not objectionable, since "the applicable law of the United States" includes the Constitution, as interpreted by the Supreme Court in INS v. Chadha.

A memorandum for Darman, alerting him to the Section 116 problem and advising him that we are awaiting language from Justice, is attached for your review and signature.

Attachment



THE WHITE HOUSE

WASHINGTON

July 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5653 -- Energy and  
Water Development Appropriation Bill, 1985

Counsel's Office has reviewed the above-referenced enrolled bill. Section 116 of the bill contains an unconstitutional legislative veto provision. In purporting to condition the exercise of specific spending authority on the approval of the Committees on Appropriations, Section 116 runs afoul of the Supreme Court's recent decision in Immigration and Naturalization Service v. Chadha. In that case the Supreme Court ruled that when Congress acts to affect legal rights and powers it must comply with the constitutional requirements for legislation. Disapproval of a single committee of either House would, under Section 116, affect legal rights and powers, yet hardly complies with the constitutional requirements for legislation.

The requirement that approval from the Committees on Appropriations be obtained prior to expenditure of funds for the purposes described in Section 116 is thus clearly invalid. Whether the authority exists to spend funds for those purposes depends on whether the approval requirement is severable from the grant of spending authority. None of the foregoing means that the President should disapprove the entire bill, but he should note his objection to the unconstitutional committee approval requirement in Section 116. I have alerted the Department of Justice to the problem with Section 116, and that Department will be submitting signing statement language addressing the problem. The Department will also provide guidance on the severability issue.

FFF:JGR:aea 7/10/84  
cc: FFFielding/JGRoberts/Subj/Chron