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THE WHITE HOUSE

WASHINGTON

September 4, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Genocide Convention

Bob Kimmitt has copied you on a memorandum to Special Assistant to the Attorney General Ron Blunt, requesting Department of Justice comments on a memorandum on the genocide convention prepared by the Department of State. The memorandum, addressed to Robert McFarlane, recommends that the President announce his support for ratification of the convention, with the three understandings and one declaration recommended by the Senate Foreign Relations Committee in 1976.

Ted Olson has advised Kimmitt that the Attorney General has no legal objection to the State recommendation, although Justice declined to take a position on the policy question of whether to announce support for ratification at this time. State notes that such an announcement could be viewed as "a cynical electoral ploy," but argues that the Administration is vulnerable to criticism as the only one since Truman's not to support ratification.

The genocide convention makes genocide a crime under international law. Parties to the convention agree to provide "effective penalties" for genocide, extradite those accused of genocide (in accordance with existing extradition treaties), and to submit disputes concerning the convention -- including the liability of a state for genocide -- to the International Court of Justice.

Conservative opposition to the convention has, over the past several decades, focused on several objections: the convention "internationalizes" criminal law, hitherto a purely domestic concern; there is no justification for submitting American conduct to an international tribunal; violent nations will ignore the convention; the Senate by approving the convention will impose an obligation on the House to pass the requisite implementing legislation; the acts that constitute genocide -- primarily murder -- have traditionally been matters of state, not Federal, jurisdiction; hostile states will use the convention for propaganda purposes, accusing the United States before the ICJ of "genocide" in Vietnam. These objections are not unfounded, but a consensus has evolved

that they are outweighed by the propaganda windfall our failure to ratify the convention has already afforded our international opponents.

The "declaration" accompanying ratification -- that ratification will not be effective until implementing legislation has been passed -- responds to one of the principal objections. Two of the three "understandings" seek to limit the convention's rather broad and vague definition of "genocide;" the third notes that the extradition provision does not affect the right of the United States to try its own citizens before its own tribunals for extraterritorial offenses.

I have reviewed the State memorandum, and the previous material provided by Justice and NSC on this matter, and have no objection to the State recommendation.

Attachment

THE WHITE HOUSE

WASHINGTON

September 4, 1984

MEMORANDUM FOR ROBERT M. KIMMITT
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Genocide Convention

Counsel's Office has reviewed the draft Department of State memorandum on the Genocide Convention, and has no legal objection to the State recommendation that the President announce support for ratification of the Convention, with the noted three understandings and one declaration.

cc: Richard G. Darman

FFF:JGR:aea 9/4/84

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 5, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Photo Request

Carol Greenawalt of the Photo Office has referred to us a request from the Barbecue Industry Association for a photograph of the President barbecuing. The photograph would be used in the industry newsletter. Arthur Seeds, who made the request, noted in his letter that this use of the photograph would provide political benefits.

I recommend that we decline to provide a photograph of the sort requested on the ground that it would be used in a commercially exploitive fashion. This request is not as bad as one for an endorsement of a particular company's products, but I do not think the President should lend his name and photograph for the promotion of a particular trade association either.

A letter to Seeds, copy to Greenawalt, is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

September 5, 1984

Dear Mr. Seeds:

Your letter to Mary Wylie requesting a photograph of the President barbecuing has been referred to this office for consideration and response. You indicated that the photograph would be used in a trade publication mailed to the membership of the Barbecue Industry Association.

We must decline to provide the requested photograph. The White House adheres to a policy of not approving any use of the President's name, likeness, photograph, or signature in any manner that suggests or could be construed as an endorsement of a commercial product or enterprise. Even if no particular company would be endorsed through your contemplated use of the photograph, this policy precludes use of photographs of the President to promote particular trade associations or products.

I trust you will appreciate the reasons for our response. Thank you for raising this matter with us.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Arthur W. Seeds, CAE
President, Barbecue Industry
Association
710 East Ogden - Suite 114
Naperville, Illinois 60540

cc: Carol Greenawalt
White House Photo Office

Mary Wylie
Office of Public Liaison

FFF:JGR:aea 9/5/84
bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

September 5, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Request for Presidential Letter to
be Used in Charitable Fundraising

The National Society for the Prevention of Cruelty to Children (NSPCC), a royally chartered British charity, has asked the President to submit a letter he wrote as a child or a letter to him from a child for inclusion in an anthology NSPCC plans to publish to raise funds. Katherine Shepherd of Presidential Correspondence has asked if we have any problems complying with the request.

Our standard practice is to deny such requests for Presidential items to be used in fundraising, and I see no reason to depart from that practice in this case. We deny such requests, even from the worthiest charitable organizations, because the White House is in no position to monitor the affairs of the charities, which would be necessary to some extent were the President to lend his name to them, and because granting some requests of this sort would inevitably generate a flood of similar, indistinguishable requests. Further, use of Presidential items for fundraising is really just selling the prestige of the office, and that is not for sale, not for any price, not for any cause. The Queen has submitted a letter for the anthology, but that is what royalty is for.

A draft reply to NSPCC is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

September 5, 1984

Dear Ms. Poute:

Thank you for your letter to the President, requesting that he submit a letter he wrote as a child, or a letter to him from a child, for inclusion in an anthology to be published to raise funds for the National Society for the Prevention of Cruelty to Children. I must advise you that we cannot comply with your request.

The White House adheres to a policy of generally not approving the use of Presidential memorabilia in connection with fundraising efforts, however laudable those efforts might be. This policy is necessary for several reasons. The White House is not able to monitor the activities of particular charitable organizations, which would be necessary to some extent were the President to lend his name to an organization. In addition, acceding to some requests for Presidential participation in private charitable fundraising would inevitably generate countless similar requests. The President could not, of course, grant all such requests, and out of fairness he has been compelled to deny them all.

I hope you will understand the reasons we must take this position, and also understand that it in no sense constitutes an adverse reflection on your organization. Best of luck with your worthy efforts. I am sorry our response could not be more favorable.

Sincerely,

Fred F. Fielding
Counsel to the President

Ms. Jenny Poute
National Society for the
Prevention of Cruelty to Children
Ardeley Bury, Near Stevenage
Hertfordshire, Walkern 458

FFF:JGR:aea 9/5/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 5, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Photo Request

Carol Greenawalt of the Photo Office has asked us to respond to a request for photographs of the President to be used on the cover of a book. The book will consist of speeches the President has delivered, with introductions by Senators Hatch and East.

In the past we have responded to similar requests by providing appropriate photographs released into the public domain, and advising the correspondent that White House approval is not required for the use of such photographs. This is not only legally accurate, but also avoids the problem of perceived endorsement that would accompany a notation that the photographs appeared "with White House approval."

Use of Presidential photographs on the cover of a book presents special problems, however, and we typically caution those planning to use photographs in this fashion that care must be taken to ensure that the cover as a whole does not convey the false impression that the President has authored, approved, or otherwise collaborated on the book. A draft letter and transmittal memorandum for the Photo Office is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

September 5, 1984

MEMORANDUM FOR CAROL GREENAWALT
WHITE HOUSE PHOTO OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Photo Request

You have asked this office to prepare a response to a request for photographs of the President. The photographs are to be used on the cover of a book. The attached response may be sent, along with the requested photographs.

Thank you for referring this matter to us.

Attachment
FFF:JGR:aea 9/5/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 5, 1984

Dear Mr. Pamel:

Your letter of August 22 to the White House Photo Office has been referred to this office for consideration and response. In that letter you requested four photographs of the President, for possible use on the cover of a book you are publishing. The book will consist of various speeches the President has delivered.

The White House Photo Office has provided the enclosed photographs, which have been released into the public domain. White House permission is not required to use photographs released into the public domain. Since such permission is not required, the photographs, if used, should not be accompanied by any notation that they are being used with White House permission or approval.

Use of the photographs on the cover of a book consisting of the President's speeches, however, raises special concerns. The photographs may not be used in any manner that conveys the false impression that the President has authored, approved, or otherwise collaborated on the book. Care must be taken in designing the cover to avoid any such false impression.

Thank you for raising this matter with us.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Gregory J. Pamel
820 Fuller No. 208
Ann Arbor, MI 48104
Enclosures

FFF:JGR:aea 9/5/84

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 5, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Legalities With Regard to Use of
Picture of the President in Catalog

Gist, Inc., wrote you on July 19, 1984, requesting permission to use a photograph of the President holding one of their trophy belt buckles in their mail order catalog. A Gist representative telephoned the office for an immediate response and, during Mrs. Cooksey's absence in Dallas, I took the call. I advised the caller, one Reva Thompson, that the contemplated use of the photograph would contravene established White House policy prohibiting use of the name, likeness, photograph, or signature of the President in any manner that suggests or could be construed as endorsement of a commercial product or enterprise. Mrs. Thompson assured me the photograph would not be used. The attached letter confirms this conversation.

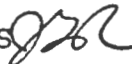
cc: Sherrie M. Cooksey

THE WHITE HOUSE

WASHINGTON

September 6, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Letter to Mrs. Ann Kerr Regarding
Fundraising Drive of American
University of Beirut

Richard Darman has asked for our views by close of business today on a proposed letter from the President to Mrs. Ann Kerr, widow of the late president of the American University of Beirut (AUB), Malcolm Kerr. The President met with Mrs. Kerr and her son on May 24, and on May 30 Mrs. Kerr wrote asking the President to help secure financial support for AUB from Congress and to write a letter in support of an AUB fundraising drive. The draft letter, prepared by NSC, states that the President has directed State, Treasury, and OMB to work with Congress on a program of support for AUB. Enclosed with the letter is a "dear friend" letter from the President, urging financial support for AUB.

A letter from the President to be used in a private charitable fundraising drive does, of course, contravene established White House policy. That policy, frequently invoked, is based on the inability of the White House to monitor the activities of charitable organizations benefitting from the President's endorsement, and the manifest unfairness of granting some requests but not other, essentially indistinguishable requests in the highly competitive arena of charitable fundraising. It is of course often difficult to adhere to this policy when dealing with the worthiest charitable organizations, but the difficulty is eased considerably by being able to state that the policy is uniformly applied. Any exceptions, of course, seriously undermine this position.

On the other hand there is no purely legal bar to the President signing the letters in question, and it can be argued that the case of AUB is sui generis and that Presidential support for its fundraising does not create a troublesome precedent. I recommend simply reminding Darman of our policy, and the evident costs of an exception, and leaving it to those more familiar with the Lebanon issue to decide if the benefits of support for AUB outweigh those broader costs.

THE WHITE HOUSE

WASHINGTON

September 6, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Letter to Mrs. Ann Kerr Regarding
Fundraising Drive of American
University of Beirut

You have asked for our views on a proposed letter from the President to Mrs. Ann Kerr, and an accompanying proposed letter from the President to be used in a fundraising drive for the American University of Beirut. Established White House policy generally precludes use of Presidential letters in support of private charitable fundraising efforts. This office routinely denies requests for such letters, noting that the White House cannot monitor the fundraising activities of private charities, which would be necessary to some extent were the President to lend his name to such activities, and that, since the President can hardly accede to all of the countless requests he receives from worthy organizations, fairness compels him to deny them all. The difficulty of denying such requests from very worthy organizations is eased somewhat by being able to state that the policy against granting such requests is uniformly applied.

On the other hand, there is no purely legal bar to the President signing a letter in support of a particular private fundraising effort. If those more familiar with Administration policy in the Middle East consider this letter critical, I would be willing to acquiesce in an exception to our established policy.

FFF:JGR:aea 9/6/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 6, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

1984 National Strategy for Prevention
of Drug Abuse and Drug Trafficking
(Prepared by OPD)

Richard Darman has asked for our comments as soon as possible on the 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking. He has also asked for our comments by 3:00 p.m. tomorrow on a draft Presidential statement for inclusion in the Strategy. The Strategy, preparation of which is mandated by 21 U.S.C. §§ 1161-1165, is a comprehensive review of efforts against drug abuse throughout the government and private sector. Like the previous Strategy issued in 1982, the 1984 Strategy describes the current state of drug abuse and outlines a five-point effort to reduce such abuse: prevention, law enforcement, international cooperation, detoxification and treatment, and research. This year's report also includes a separate section on efforts to combat drug abuse in the armed forces and Coast Guard. The 14-page introductory overview stresses the President's and First Lady's commitment to eradicate drug abuse, the various coordinating mechanisms (such as the Cabinet Councils and Drug Abuse Policy Office), and the effort to encourage private sector involvement in the fight against drug abuse. My necessarily cursory review of the 124-page Strategy has disclosed nothing objectionable. Mention is made at various points in the report of the companies that have contributed to the abuse prevention effort, such as Keebler, Xerox, IBM, the National Soft Drink Association, and so on, but this is not done in a manner that lends itself to commercial exploitation and there is no suggestion of any endorsement of particular products.

The draft message from the President notes the progress in the war on drugs and expresses his commitment to continue the battle. I have reviewed the draft message and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

September 6, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: 1984 National Strategy for Prevention
of Drug Abuse and Drug Trafficking
(Prepared by OPD)

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

FFF:JGR:aea 9/6/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 6, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Presidential Statement for
Incorporation in the 1984 National
Strategy for Prevention of Drug Abuse
and Drug Trafficking

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

FFF:JGR:aea 9/6/84

cc: FFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 7, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Proposed Presidential Remarks:
Drop-by Briefing for Journalists

Richard Darman has asked that we send any comments on the above-referenced draft remarks to Ben Elliott by 9:00 a.m. (I received the package at 9:30 a.m.). The remarks review the accomplishments of the space program and speak glowingly of the successes yet to come, including a manned space station within the decade. I have reviewed the remarks, which have already gone forward to the President, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

September 7, 1984

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Presidential Remarks:
Drop-by Briefing for Journalists

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 9/7/84

bcc: FFFielding

JGRoberts

Subj

Chron

THE WHITE HOUSE

WASHINGTON

September 7, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Request for Presidential Message
to Wal-Mart Stores Commending Them
on Their Non-Partisan Voter
Registration Drive

Duncan Clark of Presidential Correspondence has asked us to approve a draft Presidential message to be sent to Wal-Mart Stores, commending them on their non-partisan voter registration drive. The Chairman and CEO of Wal-Mart, Sam Walton, requested such a message, and his request was conveyed by Representative John Paul Hammerschmidt (R-Ark.). The proposed message stresses the importance of exercising the right to vote.

Mrs. Cooksey advises that she disapproved this request when it came in through Reagan-Bush '84 channels on August 15, on the ground that an endorsement by a candidate would undermine the non-partisan character of the voter registration drive. The attached memorandum for Duncan confirms this earlier advice.

cc: Sherrie M. Cooksey

THE WHITE HOUSE

WASHINGTON

September 7, 1984

MEMORANDUM FOR DUNCAN CLARK
PRESIDENTIAL CORRESPONDENCE OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request for Presidential Message
to Wal-Mart Stores Commending Them
on Their Non-Partisan Voter
Registration Drive

You have asked for our views on a proposed message from the President, endorsing a non-partisan voter registration drive to be conducted by Wal-Mart Stores, Inc. The question of the propriety of such a message was presented to this office some time ago by Reagan-Bush '84, and this office advised that a message should not be sent. Sending a message would undermine the non-partisan character of the voter registration drive. Accordingly, I cannot approve the proposed message.

Thank you for raising this matter with us.

FFF:JGR:aea 9/7/84


cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 7, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Questionnaire: Physics Today
(Prepared by Reagan-Bush '84)

Richard Darman has asked that we send any comments on the above-referenced candidate questionnaire to Mike Baroody by September 17. The responses were prepared by Reagan-Bush '84 in accordance with your November 28, 1983 memorandum on candidate questionnaires. The responses discuss the Administration approach to funding scientific research, reaffirm a commitment to peer review in deciding which projects to fund, support the free flow of scientific information while affirming opposition to the transfer of technology to the Soviets, and review Administration efforts to promote science and math education. I have reviewed the draft responses and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

September 7, 1984

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Questionnaire: Physics Today
(Prepared by Reagan-Bush '84)

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

FFF:JGR:aea 9/7/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS, JR. 

SUBJECT:

Posthumous Presentation of Congressional
Gold Medal to Hubert Humphrey

Richard Darman has asked that comments on the above-referenced draft remarks be sent directly to Ben Elliott by 10:00 a.m. today. The remarks praise Humphrey's generous spirit and his dedication to public service, and conclude with a presentation of the Congressional Gold Medal to Humphrey's widow. I have reviewed the remarks and have no objection.

THE WHITE HOUSE
WASHINGTON
September 10, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
AND DIRECTOR OF SPEECHWRITING

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Posthumous Presentation of Congressional
Gold Medal to Hubert Humphrey

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

cc: Richard G. Darman

THE WHITE HOUSE

WASHINGTON

September 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Request to Meet With the President

As we discussed at the last staff meeting, Commissioner Kaufman of the President's Commission on Organized Crime has written Mr. Deaver, requesting a meeting with the President to "inform him of our progress and plans for the future." You have indicated that you have no objection to such a brief meeting, with you present. The attached draft memorandum for Deaver conveys these views.

Attachment

THE WHITE HOUSE

WASHINGTON

September 10, 1984

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request to Meet With the President

You have asked for my views on a request from Judge Irving R. Kaufman, Chairman of the President's Commission on Organized Crime, to meet briefly with the President to review the progress of the Commission and its plans for the future. I have no objection to such a meeting, but in light of the various legal issues surrounding the formation and work of the Commission, I should attend as well. As you know, the launching of the Commission was a high-profile event, and a meeting of the sort requested by Kaufman may be useful in demonstrating that the President's interest in this area was not simply a passing fancy.

FFF:JGR:aea 9/10/84


cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

September 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Testimony on S. 2802,
The Legal Fees Equity Act

OMB has provided us with a copy of testimony the Deputy Attorney General proposes to deliver tomorrow before the Senate Judiciary Committee Subcommittee on the Constitution. The testimony, only sent to OMB by Justice this afternoon, concerns S. 2802, the Administration's proposed "Legal Fees Equity Act." You will recall that this bill would cap fees awarded against the government in civil cases at \$75 per hour while doubling the rates awarded to attorneys representing criminal defendants under the Criminal Justice Act. The bill would also define more precisely when an award should be made: the lawyer must prevail on the merits, can seek compensation only for time spent on issues on which he prevailed, and cannot be compensated for work done after rejection of a settlement offer that exceeds the eventual relief granted the client. The bill would also clarify the award of fees in cases that become moot, and provide for the deduction of up to 25 percent of any monetary award to cover attorneys fees.

In her proposed testimony Dinkins outlines the seriousness of the problems that have arisen in this area, notes the burden imposed on state and local governments (liable for fees in a wide range of cases under 42 U.S.C. § 1988), and reviews the provisions of S. 2802.

I am troubled by the paragraph beginning on page 7 of the testimony. In that paragraph Dinkins discusses Professor Lawrence Tribe's highly publicized request for a \$332,441 fee for taking the Grendel's Den case to the Supreme Court, and winning. Tribe eventually recovered much but not all of the amount he requested. Although Tribe's request (and, in my view, the eventual award) were outlandish, I am not certain it is appropriate to single out and criticize a practicing attorney by name in testimony of this sort. At the very least the testimony should not quote The Washington Post's disingenuous description of Grendel's Den as "a liquor license case." That is like saying Marbury v. Madison was a case about commissions.

I do not know if there is time to change the testimony -- Justice probably sent it to the Hill at the same time they sent it to OMB -- but the attached memorandum recommends deletion of the offending paragraph.

Attachment

THE WHITE HOUSE

WASHINGTON

September 10, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Testimony on S. 2802,
The Legal Fees Equity Act

Counsel's Office has reviewed the above-referenced testimony. We recommend that the paragraph beginning on page 7 be deleted. Although we agree that the fee request and even the eventual award were outlandish, it strikes us as inappropriate to single out and criticize a practicing attorney by name in testimony of this sort. Doing so invites rejoinders and distraction from the underlying issues. At the very least the testimony should not subscribe to the Post's disingenuous view that Larkin v. Grendel's Den was "a liquor license case." Whatever one may think of Professor Tribe's fee request, Grendel's Den was a significant First Amendment case, and it serves no purpose to belittle it.

FFF:JGR:aea 9/10/84
cc: FFFielding/JGRoberts/Subj/chron

THE WHITE HOUSE

WASHINGTON

September 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: LTV/Employment Article

Richard Darman has asked us to review a draft campaign article submitted to the White House by Reagan-Bush '84, and provide any comments to Mike Baroody by 3:00 p.m. September 13. The article, on employment, discusses the economic recovery, the failure of the CETA program and the contrasting approach of the Jobs Training Partnership Act, and the youth minimum wage and enterprise zones proposals. It criticizes Democratic "industrial policy" alternatives as interventionist departures from the free enterprise system.

I have reviewed the article and have no legal objections. The article does, however, contain several slips that I have noted in the attached draft memorandum for Baroody.

Attachment

THE WHITE HOUSE

WASHINGTON

September 10, 1984

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: LTV/Employment Article

Counsel's Office has reviewed the above-referenced draft article. In line five on page two, "reduce" should be "increase" or "incentives" should be "disincentives." In line 20 on page two, "real jobs" or some phrase to like effect should appear after "300,000." As the sentence is now written, read in context, our claim is that the recovery has created more than 300,000 make-work jobs every month. Also on page two, in the last sentence of the fifth paragraph, I would use some phrase other than "traditionally the hardest group to employ" in describing black teenagers. That phrase could be misinterpreted as an adverse comment on the group. I suggest something like "traditionally the group that faces the greatest difficulty in finding employment." Finally, in line one on page two, "these" should be "those," and in line 21 on page three, the second "in" should be "on."

cc: Richard G. Darman

FFF:JGR:aea 9/10/84

bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

September 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Use of Communications From the President
With Regard to the International Education
Program of the American College of Cardiology

George D. Webster of Webster, Chamberlain & Bean, on behalf of his client the American College of Cardiology, has requested permission to reproduce various letters to the College from the President in a fundraising brochure to be distributed by the College. For over twenty years the College has sponsored an international education program, utilizing the volunteered services of cardiologists. The President has on several occasions commended the College for this private sector voluntarism effort, and, most recently, sent an April 19, 1984, letter of commendation to each of the volunteering physicians. In his letter to you Webster notes that Federal funding for the program was eliminated in 1980, and that the College is now compelled to solicit funds.

Established policy, frequently invoked, generally precludes use of Presidential letters in private charitable fundraising. This policy is based on the inability of the White House to monitor the fundraising activities the President would be endorsing, and on the unfairness of endorsing some charitable fundraising efforts while declining other essentially indistinguishable requests. A draft letter to Webster advising him of our policy in this regard is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

September 10, 1984

Dear Mr. Webster:

Thank you for your letter of August 29, 1984. In that letter you inquired if the White house would have any objection to the American College of Cardiology reprinting letters from the President in a brochure to be used to solicit funds for the College's international education program.

I must advise you that we cannot grant permission for such use of the letters from the President. The White House generally adheres to a policy of not permitting use of the President's name, likeness, photograph, or signature, or items associated with the President, in connection with private charitable fundraising. There are several reasons for this policy. The White House is not in a position to monitor private fundraising activities, which would be necessary to some extent were the President to become associated with them. In addition, the President can hardly accede to all the requests he receives to endorse particular fundraising projects. Fairness dictates that he deny them all, rather than arbitrarily select some from among the vast number of requests from equally laudable organizations.

I hope you will appreciate the reasons for our position, and understand that our inability to grant your request is in no sense an adverse reflection on the important and praiseworthy efforts of the American College of Cardiology.

Sincerely,

Fred F. Fielding
Counsel to the President

George D. Webster, Esquire
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

FFF:JGR:aea 9/10/84

bcc: FFFielding/JGRoberts/Subj/Chron