

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Roberts, John G.: Files
Folder Title: Chron File (07/01/1985-07/18/1985)
Box: 65

To see more digitized collections visit:

<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:

<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

Withdrawer

File Folder CHRON FILE - (07/01/1985-07/18/1985)

DLB 8/6/2005

Box Number 65

FOIA

F05-139/01

COOK

12DLB

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO FRED FIELDING, RICHARD HAUSER, RE: U.S. INSTITUTE OF PEACE	3	7/18/1985	B6	896

COPY -- Reagan Presidential Record

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

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

E.O. 13233

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

THE WHITE HOUSE

WASHINGTON

July 8, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Descendants of the Signers of the
Declaration of Independence Offer
of Services in Connection with the
Bicentennial of the Constitution

The President-General of the Descendants of the Signers of the Declaration of Independence has written you to offer the services of that organization in connection with the Bicentennial of the Constitution. There is, according to General Kennedy, no active society of descendants of the signers of the Constitution, so her society is prepared to fill the breach, apparently under some notion of geneological cy pres (and also because several signers of the Declaration also signed the Constitution). A Mrs. William Light of McLean is listed as the appropriate person to contact.

The attached draft reply advises General Kennedy of the existence of the Bicentennial Commission, under the recently announced chairmanship of the Chief Justice. Also attached is a brief note to Mark Cannon, transmitting General Kennedy's letter.

Attachment

THE WHITE HOUSE

WASHINGTON

July 8, 1985

Dear Mark:

I am enclosing a letter addressed to me from the President-General of the Descendants of the Signers of the Declaration of Independence, offering the assistance of that organization in connection with the bicentennial of the Constitution. In light of the Chief Justice's responsibilities as Chairman of the Commission on the Bicentennial of the Constitution, I thought it best to refer the correspondence to him, and have advised Mrs. Kennedy that I have done so.

Sincerely,

Fred F. Fielding
Counsel to the President

Dr. Mark Cannon
Administrative Assistant
to the Chief Justice
Supreme Court of the United States
Washington, D.C. 20543

Enclosure

FFF:JGR:aea 7/8/85
cc: FFFielding
JGRoberts
Subj
Chron

Officers, 1984-1985

- President-General,
MRS. PHILLIP F. KENNEDY
East Meadow Lane, RFD 1, Pembroke, NH 03275
- First Vice President-General,
RIEMAN McNAMARA, JR.
8964 Tarrytown Dr., Richmond, VA 23229
- Second Vice-President,
BENJAMIN HARRISON WALKER
108 East 82nd St., New York, NY 10028
- Chaplain-General,
THE REVEREND HAROLD BEND SEDGWICK
Blueberry Lane, Lincoln Centre, MA 01773
- Registrar-General,
MISS VIRGINIA E. CAMPBELL
Box 55169, Fort Washington, MD 20744
- Assistant Registrar-General,
MRS. JOHN C. ALLNUTT
227 Great Falls Rd., Rockville, MD 20850
- Historian-General,
PHILIP SCHUYLER PYNE
3131 Meetinghouse Rd., Apt. J.11
Boothwyn, PA 19061
- Assistant Historian-General,
MRS. JOSEPH B. HAUCK
117 W. Allen's Lane, Philadelphia, PA 19119
- Treasurer-General,
PHILIP L. STRONG
93 N. Main St., Cranbury, NJ 08512
- Assistant Treasurer-General,
ROGER M. SCHMITT - Personal
c/o Johnson & Higgins
95 Wall Street, New York, NY 10005
- Secretary-General,
MRS. HANS BIELENSTEIN
50 Riverside Drive, New York, NY 10024
- Assistant Secretary-General,
MISS ELISABETH H. O'CONNOR
163 E. 81st St., New York, NY 10028
- Chancellor-General,
EDWARD RIDLEY FINCH, JR.
36 W. 44th St., New York, NY 10036

Descendants of the Signers of the Declaration
of Independence
INCORPORATED



Honorary Presidents-General

- PERCY HAMILTON GOODSSELL, JR.
Cheshire, CT 06410
- REAR ADM. SCHUYLER N. PYNE, USN. RET.
Annapolis, MD
- FRANKLIN BACHE SATTERTHWAITE
New York, NY
- MRS. LIONEL T. DeFOREST
Beaufort, SC
- Past President
WILLIAM WARD, IV
Wallingford, PA

Board of Governors, 1984-1985

- NEW HAMPSHIRE — Mrs. Kenneth Sherman Peterson Bedford
- MASSACHUSETTS — Mrs. Barbara Brooks Walker Boston
- RHODE ISLAND — Mrs. James A. Harper New York City
- CONNECTICUT — Mr. Colson H. Hillier, Jr. Wilton
- NEW YORK — Mr. Roger M. Schmitt New York City
- NEW JERSEY — Mrs. John Kean Elizabeth
- PENNSYLVANIA — Mrs. William G. Kalbfleisch Philadelphia
- DELAWARE — Mr. Richard Rodney Cooch New Castle
- MARYLAND — Mr. Frederick Wallace Pyne Linwood
- VIRGINIA — Mr. John D. Nelson Hanover
- NORTH CAROLINA — Mrs. John White Clarke Wilmington
- SOUTH CAROLINA — Mr. Donald T. Rutledge Charleston
- GEORGIA — Miss Nina Hill Hopkins Coral Gables, FL
- WASHINGTON, DC — Miss Florence May Maupin Washington, DC
- AT LARGE —
Clinton Burgess Axford New York, NY
Miss Natalie Lolita Densmore Ridley Park, PA
John Morton Fultz, Jr. Deland, FL
Mrs. Robert Williams Patterson Indianapolis, IN
Mrs. Craig McDonald Coley Annapolis, MD
Miss Anna Wilson Hall Philadelphia, PA
Mrs. Susan Warren Center McLean, VA
Mrs. David F. Cowan Jacksonville, FL
Mrs. Earl N. Mullen Springfield, PA
Miss Eleanor R. Hall Philadelphia, PA
Mrs. Robert M. Hawkrige West Chester, PA
William B. Abert Rockville, MD

June 15, 1985

Mr. Fred Fielding
Chrm. BiCentennial USA
c/o The White House
1600 Pennsylvania Avenue
Washington, DC 20001

My dear Mr. Fielding,

At the recent Annual Congress of the Society for the Descendants of the Signers of the Declaration of Independence, the membership expressed a desire to participate actively in the Commemorative preparations and celebrations for the BiCentennial of the Constitution.

There is no active Society for Descendants of the Signers of the Constitution; however more than 100 members of the Society for the Descendants of the Signers of the Declaration of Independence have a dual heritage, descending from one of the following: Benjamin Franklin, Robert Morris, George Read, George Clymer and Roger Sherman.

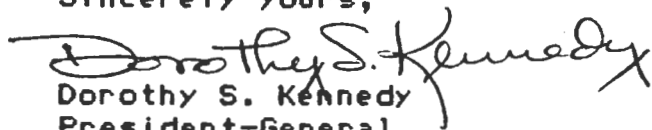
Mrs. William R. Light has knowledge of several original items pertaining to the men who signed the Constitution. She is extremely interested in the listing of these paintings, artifacts and memorabilia, that they may be made known to the public.

Mrs. Light would also make available to you the names of members of the DSDI who agree to work with her and with you should you agree to accept their services.

Her address is: Mrs. William R. Light
1113 Waverly Way
McLean, Virginia 22101

Thank you for your attention to my letter. I, too, shall be most pleased to participate in any way that I can.

Sincerely yours,


Dorothy S. Kennedy
President-General
Soc. DSDI, Inc.

cc: Mr. Frank Hodsell
Ms. Sheila Mann
Mr. Wm. Ward, IV
Mrs. Hans Bielenstein

THE WHITE HOUSE

WASHINGTON

July 8, 1985

Dear Mrs. Kennedy:

Thank you for your letter of June 15, volunteering the services of the Descendants of the Signers of the Declaration of Independence in connection with the observance of the Bicentennial of the Constitution.

By Public Law 98-101, Congress established the Commission on the Bicentennial of the United States Constitution, "to promote and coordinate activities to commemorate the bicentennial of the Constitution." The President recently announced the membership of the Commission, and designated the Chief Justice to serve as Chairman. A copy of this announcement is enclosed for your information.

In light of the responsibilities of the Commission, I have taken the liberty of referring your gracious offer of assistance to the office of the Chief Justice.

Thank you for advising us of the willingness of your organization to assist in the bicentennial observances.

Sincerely,

Fred F. Fielding
Counsel to the President

Mrs. Dorothy S. Kennedy
President-General
Soc. DSDI, Inc.
East Meadow Lane, RFD 1
Pembroke, NH 03275

Enclosure
FFF:JGR:aea 7/8/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 25, 1985

The President today announced his intention to appoint the following individuals to be Members of the Commission on the Bicentennial of the United States Constitution. The President also intends to designate Chief Justice Warren E. Burger as Chairman, who is a member by law.

FREDERICK K. BIEBEL is Executive Vice President and Treasurer of the International Republican Cooperation Fund in Washington, D.C. He was born April 5, 1926 in Bridgeport, Connecticut, and now resides in Stratford, Connecticut.

BETTY SOUTHARD MURPHY is Partner in the law firm of Baker & Hostetler in Washington, D.C. She was born March 1, 1928 in East Orange, New Jersey, and now resides in Alexandria, Virginia.

PHYLLIS SCHLAFLY is President of Eagle Forum in Washington, D.C. She was born August 15, 1924 in St. Louis, Missouri, and now resides in Alton, Illinois.

BERNARD H. SIEGAN is Distinguished Professor of Law at the University of San Diego. He was born July 28, 1924 in Chicago, Illinois, and now resides in La Jolla, California.

RONALD H. WALKER is Managing Director and Partner of Korn/Ferry International in Washington, D.C. He was born July 25, 1937 in Bryan, Texas and now resides in Potomac, Maryland.

CHARLES ALAN WRIGHT is Professor of Law at the University of Texas at Austin. He was born September 3, 1927 in Philadelphia, Pennsylvania, and now resides in Austin, Texas.

Upon the recommendation of Warren E. Burger, Chief Justice of the United States:

HERBERT BROWNELL is currently of Counsel with the law firm of Lord, Day and Lord in New York City. He was born February 20, 1904 in Peru, Nebraska, and now resides in New York City.

CORNELIA G. KENNEDY is currently U.S. Circuit Judge for the Sixth Circuit. She was born August 4, 1923 in Detroit, Michigan, and now resides in Grosse Pointe Woods, Michigan.

MORE

(OVER)

OBERT CLARK TANNER is Founder and Chairman of the Board of OC Tanner & Company. He was born September 20, 1904 in Farmington, Utah, and now resides in Salt Lake City, Utah.

CHARLES EDWARD WIGGINS is currently U.S. Circuit Judge for the Ninth Circuit. He was born December 3, 1927 in El Monte, California, and now resides in San Francisco, California.

Upon the recommendation of the President Pro Tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate:

HARRY MCKINLEY LIGHTSEY, JR. is Dean, University of South Carolina School of Law. He was born December 27, 1931 in Columbia, South Carolina, and now resides in West Columbia, South Carolina.

EDWARD P. MORGAN is owner of the law firm of Welch & Morgan of Washington, D.C. He was born May 28, 1913 in St. Louis, Missouri, and now resides in Bethesda, Maryland.

THEODORE FULTON STEVENS is a U.S. Senator for the State of Alaska. He was born November 18, 1923 in Indianapolis, Indiana, and now resides in Chevy Chase, Maryland.

Upon the recommendation of the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives:

LYNNE ANNE VINCENT CHENEY is currently Senior Editor of the Washingtonian Magazine. She was born January 14, 1941 in Casper, Wyoming, and now resides in Washington, D.C.

PHILIP M. CRANE is U.S. Representative for the 12th District of Illinois. He was born November 3, 1930 in Chicago, Illinois, and now resides in Washington, D.C.

WILLIAM JOSEPH GREEN is an attorney with the firm of Wolf, Block, Schorr & Solis-Cohen of Philadelphia. He was born June 6, 1938 in Philadelphia, Pennsylvania, and still resides there.

THOMAS HENRY O'CONNOR is a Professor of History at Boston College. He was born December 9, 1922 in Boston, Massachusetts, and resides in Braintree, Massachusetts.

#

THE WHITE HOUSE

WASHINGTON

July 9, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Article on 200th Anniversary of the
Constitution for Parade Magazine

Attached is a revised draft of the proposed brief article by the President for Parade Magazine on the 200th Anniversary of the Constitution. The changes suggested in the first and third paragraph of my memorandum of July 8 (copy attached) have been made. The change suggested in the second paragraph -- deleting what is now the first paragraph on page 2 -- has not been made. I thought (and think) it best not to mention the call for a Constitutional Convention at all, but the statement in the draft does not support such a call; indeed, if anything, it suggests opposition. Accordingly, I do not feel strongly about dropping that paragraph. I have reiterated the suggestion in the attached draft for your signature (the original draft was staffed for my direct reply, hence my memorandum of July 8; this revised draft was staffed for a reply for your signature).

Attachment

THE WHITE HOUSE

WASHINGTON

July 9, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Article on 200th Anniversary of the
Constitution for Parade Magazine

I have reviewed the revised draft of the proposed Presidential article for Parade Magazine. I would still drop the reference to a second constitutional convention in the first paragraph on page 2. I am opposed to such a convention, so I have no quarrel with the thrust of the paragraph, but I think the better course would be to avoid mentioning the subject at all.

FFF:JGR:aea 7/9/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

July 9, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Draft Letter to Congressman Larry
Craig Regarding Balanced Budget

As discussed this morning. You should know that the Office of Legal Counsel determined in 1979 that an Article V convention could be limited to a particular issue. I did not cite this opinion (copy attached) in the attached draft memorandum, because it is little more than an ipse dixit refuted by the history of the original Constitutional Convention.

Attachment

THE WHITE HOUSE

WASHINGTON

July 9, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Letter to Congressman Larry
Craig Regarding Balanced Budget

You have asked for comments on a proposed letter from the President to Congressman Larry Craig, stating that the President does not object to "a limited Constitutional Convention" called by the States for the purpose of proposing a balanced budget amendment. It is my strongly-held view that the President should not endorse the constitutional convention procedure for proposing amendments to the Constitution.

The convention route for amending the Constitution has never been tried and is rife with legal uncertainties. One thing that does seem clear is that the Executive has no formal legal role to play in the process, just as the Executive has no formal legal role in the other, more traditional method of proposing amendments to the Constitution. See Hollingsworth v. Virginia, 3 Dall. 378 (1798); Special Constitutional Convention Study Committee, ABA, Amendment of the Constitution by the Convention Method Under Article V, 25-28 (1974). While the President has of course endorsed particular proposed amendments, he has not, to my knowledge, endorsed the untested convention method.

The principal difficulty with supporting "a limited Constitutional Convention" is that it is unclear that any convention called by the States pursuant to Article V could be limited. Legal scholars are sharply divided on the question, but it is important to recall that the original Constitutional Convention was called "for the sole and express purpose of revising the Articles of Confederation." Once convened, the Framers went far beyond this limited mandate. The product of their transgression has served us well for almost two centuries, but the convening of another constitutional convention would put the entire Constitution at risk.

Perhaps a convention called pursuant to Article V could be limited to the balanced budget issue, but who would enforce such a limitation on the delegates? It would seem that their authority would be paramount to that of Congress, and it is reasonably well-established that the courts should abstain from interfering in the amendment process. As noted, the Executive has no formal role in that process. In short, there is the very real danger of a convention called for a limited purpose becoming a runaway convention, reconsidering the entire Constitution. That is precisely what happened in 1787, and I am not anxious to commemorate the bicentennial of the Constitution by redoing the Convention, particularly since Hamiltons, Madisons, and Jays seem in short supply.

I recommend that the letter not be sent.

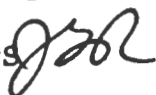
FFF:JGR:aea 7/9/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

July 10, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Enrolled Bill S. 883 -- Export Administration Amendments Act of 1985

David Chew has asked for our comments by 5:00 p.m. today on enrolled bill S. 883, the "Export Administration Amendments Act of 1985." This is the long-awaited bill to continue the authorities of the Export Administration Act of 1979, which expired in March 1984. As you know, we have continued the authorities of that Act since they expired through the declaration of a national economic emergency under the International Emergency Economic Powers Act (IEEPA), see Executive Order 12470 (March 30, 1984). (We also continued the authorities for several shorter periods before the ultimate expiration date, as Congress let the Act expire then retroactively extended it for the brief periods it mistakenly thought were sufficient to pass a reauthorization bill.)

Congress did not simply reauthorize the Act of 1979 but amended it extensively. The end result is a compromise acceptable to all the affected agencies and departments. The compromise, however, imposes significant new restrictions on the President's authority to impose controls on exports. Most such restrictions appear in Section 105 (national security controls) and Section 108 (foreign policy controls). The President may not, under the bill, impose national security export controls on agricultural products (Section 105(g)), must not merely consider various factors before imposing foreign policy controls but actually make various determinations, Section 108(b), and must consult with and report to Congress before imposing foreign policy controls, Section 108(e). On the divisive issue of contract sanctity, the bill specifies, Section 108(1), that existing contracts may not be affected unless the President determines and certifies that "a breach of the peace" poses a direct threat to the strategic interest of the United States, and that curtailing existing contracts will be "instrumental" in remedying the situation.

These are indeed significant new restrictions on the President's authority to administer the export control program. It is important to note, however, that these restrictions only

apply to controls imposed under this Act. In particular, the President is not bound by these restrictions in imposing controls in an appropriate case under IEEPA.

A critical question from our point of view is the transition from the continuation of the export controls by Executive Order under IEEPA to the new, amended Act. When he continued the controls by Executive Order 12470, the President stated his "intention to terminate this Order upon the enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act." This bill reauthorizes those authorities, albeit with changes. It would seem that the Executive Order should be terminated immediately upon signing of this bill. Failing to do so would result in two separate, concurrent export control programs, the old 1979 one, imposed under IEEPA by the Executive Order, and the new 1985 one, established by this bill. The Executive Order imposition of the 1979 controls would definitely not terminate automatically upon signing of the bill.

I alerted both OMB and Commerce to this problem, and they are now working on an Executive Order terminating Executive Order 12470, with appropriate grandfather provisions to accommodate pending cases. The bill should not be signed until that Order is also ready for signature. Since the bill must be signed by Saturday, July 13, processing of the new Executive Order should be expedited.

Attachment

THE WHITE HOUSE

WASHINGTON

July 10, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 883 -- Export
Administration Amendments Act of 1985

Counsel's Office has reviewed the above-referenced enrolled bill. While the bill does impose significant new restrictions on the President's authority to administer the export control program, I am in no position to second-guess the unanimous view that this is the best compromise that could be achieved. In this regard, it is important to note that the various restrictions in this bill apply only to controls imposed under the Export Administration Act of 1979. In particular, the restrictions do not apply to controls the President may impose in an appropriate case pursuant to emergency powers granted by statutes other than the Export Administration Act, or granted by the Constitution.

The authorities of the Export Administration Act, which expired by its terms in March of 1984, were continued by Executive Order 12470 (March 30, 1984), pursuant to the declaration of a national economic emergency under the International Emergency Economic Powers Act, 50 U.S.C. § 1702. That Executive Order stated the President's "intention to terminate this Order upon the enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act." The Executive Order will not terminate automatically upon signing of S. 883. If a new Executive Order terminating Executive Order 12470 is not signed immediately after the signing of S. 883, there will be two concurrent and conflicting export control programs in effect: the unamended 1979 Act, by virtue of the Executive Order and the emergency declaration under IEEPA, and the new Act, as amended by S. 883. Accordingly, S. 883 should not be signed until an executive order terminating Executive Order 12470, with any appropriate grandfather provisions, is also available for the President's signature.

FFF;JGR:aea 7/10/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

July 12, 1985

MEMORANDUM FOR FRED F. FIELDING.

FROM:

JOHN G. ROBERTS 

SUBJECT:

Determination Under Section 301 of the Trade Act of 1974 Concerning Subsidies Granted by the European Space Agency on Satellite Launching Services

David Chew has asked for comments by July 15 on the above-referenced proposed determination under Section 301 of the Trade Act of 1974, 19 U.S.C. § 2411. On May 24, 1984, a United States company formed to provide commercial satellite launch services filed a petition under 19 U.S.C. § 2412 with USTR, complaining of foreign government subsidies to Arianespace, S.A., a French commercial satellite launching venture. USTR initiated an investigation and conducted consultations and has now submitted a recommendation to the President, as required by 19 U.S.C. § 2414. Pursuant to 19 U.S.C. § 2411(c)(2), the President has 21 days from receipt of the recommendation (until July 30) to determine what action, if any, to take.

USTR has concluded that the practices of the foreign governments in this case are not unreasonable; indeed, many are similar to our own practices. Accordingly, USTR recommends that the President take no action. A proposed determination with reasons is attached for signature by the President and publication in the Federal Register, as required by 19 U.S.C. § 2411(c)(2). I have reviewed the determination and have no objections.

There was some discussion during this investigation of negotiations with foreign governments to develop guidelines on government involvement in commercial satellite launching ventures. All affected agencies except Transportation think we should complete our own review of shuttle pricing policy and related issues before entering into such negotiations. This issue is not legally pertinent to the instant Section 301 issue.

Attachment

THE WHITE HOUSE

WASHINGTON

July 12, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Determination Under Section 301 of the Trade
Act of 1974 Concerning Subsidies Granted by
the European Space Agency on Satellite
Launching Services

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

FFF:JGR:aea 7/12/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

July 12, 1985

MEMORANDUM FOR FRED F. FELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Vacancy on International Centre for Settlement
of Investment Disputes (ICSID) Panel of
Arbitrators

You have asked for information on the legal requirements for appointment to the ICSID Panel of Arbitrators. The ICSID was established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, 17 U.S.T. 1270. The Convention provides for panels of arbitrators to decide disputes submitted to them, with each contracting state eligible to designate four persons -- who may, but need not be, its nationals -- to the pool of arbitrators. Article 14 of the Convention provides that arbitrators "shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance. . . ." 17 U.S.T. 1270, 1277.

Congress passed the Convention on the Settlement of Investment Disputes Act of 1966 to implement the Convention. This statute simply provides, with respect to appointments, that "the President may make such appointments of representatives and panel members as may be provided for under the convention." 22 U.S.C. § 1650.

Arbitrators are not compensated by the Government. They are only compensated when they are selected to hear a particular matter, in which case their expenses and fees are borne by the parties. Article 60-61, 17 U.S.T. 1270, 1293-94.

Cases are brought to the Centre only by mutual consent of the parties, and the parties generally must consent to the selection of arbitrators (if the parties cannot agree, the Chairman of the Centre appoints arbitrators). Conflicts problems are thus extremely unlikely. Since no pay or full-time service is involved, an SF-278 would not be necessary.

I would note that the willingness of states and parties to use the ICSID depends in large part on the quality of the arbitrators. The United States has been represented by rather distinguished attorneys since the Centre was established, including Thurman Arnold, Leon Jaworski, Soia Mentschikoff, Henry Seyfarth, Henry Salvatori, Detlev Vagts, and Myres McDougal. This will be President Reagan's first appointment to the Panel.

The attached memorandum for Tuttle alerts him to the need to make an appointment to this body. I did not know if you wanted to recommend a particular candidate.

THE WHITE HOUSE

WASHINGTON

July 12, 1985

MEMORANDUM FOR ROBERT H. TUTTLE
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR OF PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Vacancy on Panel of Arbitrators of the
International Centre for Settlement
of Investment Disputes

A vacancy has arisen in the United States delegation to the Panel of Arbitrators of the International Centre for Settlement of Investment Disputes (ICSID). The ICSID was established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, to which the United States is a party. The Convention provides that the United States may appoint four individuals to the Centre's Panel of Arbitrators, and 22 U.S.C. § 1650 provides that the President may make those appointments.

The only qualifications for appointment appear in Article 14(1) of the Convention:

Persons designated to serve on the Panels shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance in the case of persons on the Panel of Arbitrators.

Persons appointed to the Panel receive no compensation from the Government, but are compensated by the parties to any case they arbitrate.

Past appointees have generally been very distinguished attorneys or legal scholars. Since parties must consent to submit cases to the Centre, the quality of the arbitrators is very important. This will be President Reagan's first appointment to the Panel of Arbitrators.

FFF/JRG:kl
FFFieliding
JGRoberts
Subj.
Chron.

THE WHITE HOUSE

WASHINGTON

July 15, 1985

Dear Ms. Johnston:

Thank you for your recent inquiry concerning our policies with respect to participation by the President in fundraising by private charitable organizations. The President has repeatedly sought to encourage private sector support for charitable activities. The Office of Private Sector Initiatives here at the White House was established to promote such support, identify laudable examples of voluntarism, and disseminate information to assist such activities.

While the President has done much to encourage private sector support for charitable organizations in general, the Administration has generally adhered to a policy of not supporting particular fundraising activities. As I am certain you can imagine, the President receives countless requests to lend his name to particular fundraising projects for worthy charities. We cannot possibly grant all such requests, nor is there any fair way to distinguish between those few that could be granted and the vast majority that must be turned down. Accordingly, it was decided that fairness to all compelled us to adopt a policy of generally declining all such requests, rather than arbitrarily selecting a few for Presidential endorsement.

In addition to the foregoing fairness concern, any endorsement by the President of a particular fundraising project would require the White House to monitor to some degree the activities of the organization benefitting from the endorsement, to ensure that there was no misuse of the President's name, and that the funds raised were in fact devoted to the intended purpose. The White House is generally unable to perform such monitoring on any broad basis.

The requests we receive for endorsement of fundraising activities appear in many guises, including requests for Presidential statements that will be reproduced in solicitation letters, requests for permission to use the President's name as a "patron" or "honorary chairman" of a campaign, and requests for White House memorabilia to be auctioned off, with the proceeds benefitting the charity. When we decline these requests we note that we are doing so pursuant to our general policy, and indicate the reasons for that policy. We indicate that we adhere to the policy regardless of the laudable nature of the charity involved, and that our inability to endorse the fundraising activity should not be

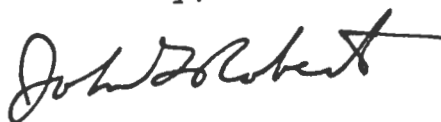
viewed in any way as an adverse reflection on the charity. We have found that most individuals appreciate the need for our policy.

There are limited exceptions to the policy of not endorsing particular fundraising efforts or specific charitable organizations. The President serves as honorary chairman of some organizations by virtue of his office, such as the American Red Cross and the Boy Scouts of America. He has, as is customary, supported certain traditional Washington charitable activities such as the Ambassadors Ball and the National Symphony Ball. On rare occasions, the President or First Lady will lend their names to fundraising projects or charitable organizations of particular personal concern, either because of their association with the charity prior to the President's assuming office or because of personal involvement in the particular area. The First Lady's efforts in the area of drug abuse prevention are the most prominent example of the latter category.

I hope this information is helpful as you address the similar issues surrounding participation by the Prime Minister in charitable activities. If I may be of any further assistance, please do not hesitate to contact me.

With best wishes,

Sincerely,



John G. Roberts
Associate Counsel to the President

Ms. Margaret Johnston
Privy Council Office
Room 201
Langevin Block
Ottawa, Canada K1A 0A3

THE WHITE HOUSE

WASHINGTON

July 17, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Defense Audit Report on Inaugural Assistance

Kathleen Buck of the Department of Defense General Counsel's office has sent us a copy of the Defense Auditor General's report on Defense assistance to the 1985 Inaugural, for our review and comment. The report notes the questionable legal basis for the bulk of the Defense support, in light of the 1983 GAO opinion. It is also quite accurate in stressing at several points that AFIC was in place preparing to provide inaugural support long before the question of its authority to do so was addressed by authorities at Defense.

The report recommends Congressional legislation to resolve the ambiguities surrounding Defense support of the inaugural, designation of an "executive agent" at Defense to supervise AFIC from the outset for future inaugurals, a separate Defense appropriation for inaugural support, and a clearer definition of mission before launching of another AFIC.

I am generally very pleased that the main theme of this internal Defense audit is that AFIC acted without proper authorization at the outset and that it should be more closely supervised in the future. I have no quarrel with the recommendations in the report, and only the few relatively minor comments on the text made in the attached draft memorandum for Buck.

Attachment

THE WHITE HOUSE

WASHINGTON

July 22, 1985

MEMORANDUM FOR KATHLEEN A. BUCK
OFFICE OF THE GENERAL COUNSEL
U.S. DEPARTMENT OF DEFENSE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Defense Audit Report on Inaugural Assistance

Thank you for sharing with us a copy of the report of the auditor general on military assistance in connection with the 1985 Inaugural. As you know, this office agrees with the basic recommendation contained in the report, that Congress consider legislation to clarify the ambiguities surrounding permissible support from the Department of Defense for the inaugural. I would not, however, conclude, as the report does in paragraph 5a, that "much of the support provided by DOD appeared to violate the intent of the [Presidential Inaugural Ceremonies] Act." The basis for the guidelines jointly issued by counsel to PIC and the Defense General Counsel's office is that it was not the intent of Congress to restrict military support to only that authorized in the Presidential Inaugural Ceremonies Act. It is one thing to state that the Act does not itself authorize such support, and quite another to conclude that such support violates the intent of the Act.

Also with respect to paragraph 5a, I am not certain it is desirable to include GAO and Hill representatives in the preliminary stages of developing proposed legislation. It may be better to develop an executive branch proposal and then seek GAO and Hill support.

FFF:JGR:aea 7/17/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

July 18, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Request for the President to Appear on
ABC Children's Fall Preview Special

Bill Henkel has asked for your views on a proposal that the President participate in an upcoming ABC television show on physical fitness for youngsters. The show will feature Tony Danza, Mary Lou Retton, and "clips of upcoming ABC children's programs from the fall schedule." A volunteer advancement man who is also a partner in a public relations firm initiated the request.

Although this program has the support of the President's Council on Physical Fitness, its use as a vehicle to promote ABC's fall children's schedule should preclude participation by the President.

Attachment

THE WHITE HOUSE

WASHINGTON

July 22, 1985

MEMORANDUM FOR WILLIAM HENKEL
DEPUTY ASSISTANT TO THE PRESIDENT
FOR PRESIDENTIAL ADVANCE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request for the President to Appear on
ABC Children's Fall Preview Special

You have asked for my views on a proposal that the President participate in some fashion in an upcoming ABC television program on physical fitness for youngsters. The program has the support of the President's Council on Physical Fitness, and appears to have a worthy purpose. Nonetheless it is, as you note, specifically designed to promote ABC's fall children's programming schedule. The President should not participate in such a promotional vehicle, particularly given the intensely competitive television programming market.

FFF:JGR;aea 7/18/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE
WASHINGTON

July 18, 1985

MEMORANDUM FOR FRED F. FIELDING
RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: U.S. Institute of Peace

Bob Tuttle has finally responded to your memorandum of May 8, advising that the Secretary of State will designate Max Kampelman and that the Secretary of Defense will designate Richard Perle, both Democrats, to serve on the Board of Directors of the Institute of Peace. Ken Adelman, a Republican, will serve on the board as ACDA director. [REDACTED]

[REDACTED] Of the eleven non-Government prospective nominees, six are Republicans and five are Democrats, so the entire slate can go forward regardless of the affiliation of the [REDACTED] (Not counting him, the split is 7-7, so the requirement that no more than eight be of the same party will be met in any event.)

By memorandum dated June 28, I indicated no objection to Weinrod, Bark, Neuhaus, Lovett, Kinter, Kirkpatrick, and Thompson. [REDACTED]

b6

b6

[REDACTED]

b6

Moore may now be cleared.

I received Allen Weinstein's PDS just after I submitted my June 28 memorandum, and advised Dianna orally that I had no objection to his nomination. We still, however, have no forms from Wendy Borchardt.

To sum up, the following may be nominated, assuming clean FBI reports: Weinrod, Bark, Lovett, Kinter, Kirkpatrick, Thompson, Moore, and Weinstein. The four ex officio members may be announced (they are not nominated).

[REDACTED]

b6

THE WHITE HOUSE

WASHINGTON

July 18, 1985

MEMORANDUM FOR FRED F. FIELDING
COUNSEL TO THE PRESIDENT

FROM: ROBERT H. TUTTLE
DEPUTY ASSISTANT TO THE PRESIDENT
AND DIRECTOR OF PRESIDENTIAL PERSONNEL

SUBJECT: Institute of Peace

The following is a status report on the four ex officio members who are to serve on the United States Institute of Peace, Board of Directors:

The Secretary of State has designated Max Kampelman, Ambassador to the United States Office for Arms Reduction Negotiations to serve on the Board of Directors. He is a Democrat.

The Secretary of Defense is sending a letter designating Richard Norman Perle, Assistant Secretary of Defense for International Security Policy. He is a Democrat.

Kenneth L. Adelman, the Director of the United States Arms Control and Disarmament Agency is a Republican.

The political affiliation of the President of the National Defense University is still unknown.

THE WHITE HOUSE

WASHINGTON

July 18, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Mickey Mouse

Anne Higgins exploded in righteous indignation when we declined, pursuant to usual policy, to approve a Presidential message on the occasion of Disneyland's 30th anniversary. She prepared a memorandum questioning the commercial messages policy. I have prepared a reply for your signature.

Attachment

THE WHITE HOUSE

WASHINGTON

July 22, 1985

MEMORANDUM FOR PATRICK BUCHANAN
DAVID L. CHEW
CHRISTOPHER HICKS
ANNE HIGGINS

FROM: FRED F. FIELDING

SUBJECT: Request for Policy Change on
Presidential Messages/Greetings

This office scrupulously avoids any suggestion that the President has endorsed a particular commercial entity, product, or venture. I am committed to ensuring that the office of the Presidency and this President not be subjected to any sort of commercial exploitation. Over the years this commitment has required us to take appropriate legal action on numerous occasions against those who sought to capitalize on the President's name. By that time, however, the damage has already been done, and there is often little curative action that can be taken beyond compelling the offending party to cease and desist.

Accordingly, we have developed a variety of prophylactic rules that operate to minimize the opportunities for misuse of the President's name for profit. For example, when we review Presidential addresses, proclamations, and correspondence, we take care to avoid any mention of particular companies or products in a manner that could be taken out of context as an endorsement. We work with the Photo Office to prevent misuse of photographs of the President in promotional material. And we have worked with the Better Business Bureau and the advertising industry and media to prevent the publication of misleading advertisements involving the President or White House. One such prophylactic policy that we have adhered to since the beginning of the Reagan Presidency is that of declining to approve congratulatory messages from the President on the occasion of commercial anniversaries. When a request for such a message is received, it is to be routed to this office. We prepare a reply explaining that all such requests are declined, because the President cannot grant them all and there is no fair way to discriminate among the requests, and because of concerns about such messages in the competitive commercial environment.

Now the Director of Correspondence wishes to reconsider this policy, stating that companies that reach a 50- or 100- year anniversary "deserve a pat on the back from the President," that such a message would not be an endorsement, that "we would use common sense" in avoiding messages to possibly embarrassing companies, and that sending a message to every company that asks for "a 50 or 100 or other special anniversary congrats" would not cheapen the President's signature.

If a Presidential message is sent to every company requesting one, it is of course meaningless, except perhaps to distinguish those companies that know of the availability of such messages from those that do not. Making a Presidential message meaningless does, in my view, cheapen the signature.

I do think it would be very embarrassing to the President to have congratulatory messages sent to companies under investigation or indictment, or the subject of public controversy. What would a congratulatory message to General Dynamics say? To Dow Chemical, if an anniversary coincided with the Bhopal tragedy? Once it is conceded that not every company should get a congratulatory message from the President, how do we separate those that should from those that should not? The "banner headlines" test suggested by the Director of Correspondence hardly seems sufficient to avoid embarrassment to the President. What would we do when we have information of an investigation or indictment of a company not yet public? Do we send a message, subjecting the President to embarrassment when the adverse information becomes public, or do we decline, alerting everyone that something is awry?

Quite apart from the foregoing, I continue to have reservations about the President congratulating particular companies in a competitive industry. I think Pepsi would have a legitimate gripe about Presidential words of praise to Coca-Cola on its 100th anniversary, and the response "you'll get the same when you reach 100" does not strike me as adequate.

The overriding concern, however, is possible misuse of any Presidential message for commercial purposes. This problem arises with distressing frequency even when we do not send congratulatory messages to companies. To cite just a few examples: a couple visiting the White House representing Hungarian-Americans reproduces a photo with the President and letter on White House stationery in advertising for their art gallery. We receive numerous complaints from other artists. A heating company owner receives a congratulatory letter from the President for being named one of the Jaycee's outstanding men of the year, and reproduces it in promotional material. We receive complaints from as far away as England from customers who purchased a faulty

heating system "relying on the President's endorsement." A photograph of the President shaking hands with the owner of a gold investment company appears in the company's advertising; the individual and company are later prosecuted for fraud. The point is that once a message or photograph leaves the White House we have no control over its use or misuse. Non-objectionable messages are taken out of context in pursuit of profit; the temptation to do so with explicitly laudatory messages would be that much greater. I hope my experience has not made me overly cynical, but I do not think that this problem could be cured, as the Director of Correspondence suggests, simply by telling recipients of messages not to do it.

I apologize for going on at such length, but I truly do feel that the matter is more serious than it might appear at first blush. The principle that we should avoid commercial exploitation of the Presidency and the President is critical, and I believe that our policy against commercial anniversary messages promotes that principle in an important way.

Stare decisis is also important in this context. We have been denying such messages for over four years. Changing the policy now would be unfair to those whose anniversaries fell in the first term, and were denied a message.

All of the foregoing problems are avoided by adherence to a general policy of declining all requests for messages for commercial anniversaries. On the down side, I do not think the President suffers in any way by declining such requests, particularly when it is explained that all requests are denied.

I cannot conclude without a few words about the Disneyland case, which apparently prompted the suggested change in policy. I enjoy Mickey, Donald, Goofy and the rest of the gang as much as anyone. But Disneyland is indisputably a commercial venture, with competitors. It used its thirtieth anniversary to promote its product -- a particular form of entertainment -- and I do not think the President should have participated in that promotion. In addition, however appealing Disneyland might be, making an exception to the general policy would simply have led to demands for similar exceptions in the future.

FFF:JGR:aea 7/18/85
cc: FFFielding
JGRoberts
Subj
Chron