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THE WHITE HOUSE

WASHINGTON

November 18, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS

SUBJECT: Prospective Nomination of Otto J. Reich
to be Ambassador to Venezuela

I have reviewed the SF-278 and related materials submitted by Otto Reich in connection with his prospective nomination to be Ambassador to Venezuela. Reich notes that his nomination may be subject to attack because of his previous affiliation with the Council of the Americas, a non-profit association of U.S. companies with investments in Latin America, and because he is identified with the President's policies with respect to Central America. (Curiously, Reich also notes that he worked for the McGovern presidential campaign in 1972.) These concerns are all policy ones that presumably have already been addressed.

Reich's SF-278 discloses reimbursements for travel from an organization identified as a 501(c)(3), and contributions by a previous employer to a life insurance policy, permissible under 18 U.S.C. § 209(b). I have no objection to proceeding with the nomination.

THE WHITE HOUSE

WASHINGTON

November 21, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS



SUBJECT:

S.J. Res. 2 -- Constitutional Amendment
to Permit Silent Prayer in Schools

OMB has copied you on its request to Justice and Education for views on S.J. Res. 2, a proposed constitutional amendment to permit "individual or group silent prayer or reflection in public schools." The express intent of S.J. Res. 2 is to overturn the recent decision of a sharply-divided Supreme Court in Jaffree v. Wallace, 105 S. Ct. 2479 (1985).

It is our customary practice to await receipt of agency views and comment at that time, if we see a need to intervene. I see no reason to depart from that practice in this instance. I expect the Justice report to begin by noting that the Executive has no formal role in the amendment process, and then to announce support for the amendment. Justice did, after all, appear on the losing side in Jaffree v. Wallace. I would have no objection to such a position statement. Many who do not support prayer in school support a "moment of silence" (including Senator Biden), and the conclusion in Jaffree v. Wallace that the Constitution prohibits such a moment of silent reflection -- or even silent "prayer" -- seems indefensible.

THE WHITE HOUSE

WASHINGTON

November 21, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS 

SUBJECT:

S.J. Res. 228 -- Sales of Arms to Jordan

David Chew has asked for our views on enrolled resolution S.J. Res. 228 by 10:00 a.m. tomorrow. This joint resolution bars the recently proposed arms sale to Jordan until March 1, 1986, unless "direct and meaningful peace negotiations between Israel and Jordan are underway." The resolution passed the House by voice vote and the Senate 97-1.

OMB and NSC recommend approval; State has no objection; Defense no comment. Any veto of this resolution would surely be overridden, hence the OMB and NSC recommendation of approval. I have no legal objections. Congress is free to bar arms sales of this sort if it wants to by regular legislation; this is not the objectionable legislative veto procedure Congress used in the pre-Chadha days.

Attachment

THE WHITE HOUSE

WASHINGTON

November 21, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: S.J. Res. 228 -- Sales of Arms to Jordan

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

RAH:JGR:aea 11/21/85


cc: FFFielding
RAHauser
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 21, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Correspondence Regarding the Establishment
of the Leon Klinghoffer Memorial Fund

Milton Gralla, Executive Vice President of Gralla Publications, has written the President to advise him of the establishment of the "Leon Klinghoffer Memorial Fund." Mrs. Klinghoffer is an employee of Gralla Publications. In a statement to the media, Gralla announced the establishment of the Fund, which is intended to promote more effective measures against terrorists. According to the statement, contributions to the Fund should be sent directly to Mrs. Klinghoffer, at the Gralla Publications address. Gralla also enclosed a copy of a photograph of himself with the President, at an unspecified event.

Gralla writes in his letter that he is "confident that you will support the goals of this important Fund," but does not explicitly ask the President to do anything. I am hesitant to send any reply suggesting support of this Fund, since it is not clear it has been formally established as a 501(c)(3), nor is it clear that it could so qualify, given its stated goals. The Fund also seems dangerously entwined with Gralla Publications, and I am concerned about possible misuse of any Presidential endorsement of the Fund. Lastly, although Gralla asserts that the Klinghoffer family endorses the Fund, we have no independent confirmation of that fact.

I think the safest approach at this time would be a reply from you, thanking Gralla for advising us of what he has done, and reaffirming the President's commitment to see the terrorists brought to justice. If Gralla wants an actual endorsement of his Fund, he can ask explicitly.

The letter is dated October 17, but was only referred to our office by Sue Mathis on November 15. Accordingly, the draft reply notes that the letter was only recently referred to us.

Attachment

THE WHITE HOUSE

WASHINGTON

November 21, 1985

Dear Mr. Gralla:

Thank you for your letter of October 17 to the President, which was recently referred to this office. In that letter you advised us of the steps you have taken to establish a memorial fund in the name of Leon Klinghoffer, and expressed your support for the President's actions to ensure that the terrorists responsible for the murder of Leon Klinghoffer not escape.

Please be assured that the President remains committed to doing everything necessary to see that the terrorists are brought to justice. The Department of State and the Department of Justice are closely monitoring the Italian proceedings involving the captured terrorists, and continuing their efforts find any others who may have been involved. Those responsible for this cowardly crime cannot go unpunished.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Milton Gralla
Gralla Publications
1515 Broadway
New York, NY 10036

FFF:JGR:aea 11/21/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 21, 1985

MEMORANDUM FOR RICHARD A. HAUSEF

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Appointment of Thomas G. Pownall
to the President's National Security
Telecommunications Advisory Committee

I have reviewed the Personal Data Statement submitted by Thomas G. Pownall in connection with his prospective appointment to the President's National Security Telecommunications Advisory Committee. The Committee was established by Executive Order 12382 (September 13, 1982) to provide advice to the President and the Secretary of Defense on national security telecommunications policy. Pursuant to the Executive Order, the President may appoint up to 30 members to the Committee, who "shall have particular knowledge and expertise in the field of telecommunications and represent elements of the Nation's telecommunications industry."

Thomas G. Pownall is Chairman and CEO of Martin Marietta Corporation, a leading defense contractor. His PDS notes that Martin Marietta has been the subject of several anti-trust investigations and prosecutions over the years. Most recently, Martin Marietta was included in the list of 45 contractors reported by the Defense Inspector General to be the subject of pending investigations. The Martin Marietta investigation involves subcontractor kickbacks and mischarging. According to the PDS, "Mr. Pownall is neither a target nor a subject of the investigation." Mr. Pownall is, however, a defendant in a shareholder derivative suit flowing from the recent unsuccessful Bendix takeover attempt. The suit was dismissed on summary judgment, but an appeal is pending.

THE WHITE HOUSE

WASHINGTON

November 22, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: State and U.S.I.A. Decision Memorandum
Regarding Convention on Cultural Property

You will recall that U.S.I.A. recently received the first request, from Canada, for U.S. action under the Convention on Cultural Property. My memorandum for you of October 4 (Tab A) explains the background of this international agreement and the 1983 implementing legislation, codified at 19 U.S.C. §§ 2601-2612. As I noted in that memorandum, U.S.I.A. and State have been unable to agree on a delegation of the Presidential functions under the legislation. On October 4 you sent a memorandum (Tab B) to Director Wick and Under Secretary Armacost, directing them to submit a decision memorandum to resolve the delegation dispute. A decision memorandum, with alternative proposed executive orders, was submitted to OMB on November 4. OMB staffed it to NSC, OMB General Counsel, and our office. A group from U.S.I.A. met with Diane Weinstein of OMB General Counsel and me to present the U.S.I.A. position orally; State apparently is content with the exposition of its arguments in the memorandum.

U.S.I.A. and State agree that most of the Presidential functions in the Convention on Cultural Property Implementation Act, such as determining whether negotiations should be initiated, and taking the various procedural steps in processing a request, should be delegated to the U.S.I.A. Director. Disagreement centers on the actual negotiation of bilateral or multilateral agreements to protect cultural property, which is one of the steps the President is authorized to take if it is determined that the conditions of the Convention and Act have been met, see 19 U.S.C. § 2602. State contends that it should have negotiating authority, since international negotiating authority should not be fragmented but remain centered at State, whatever the substantive area. Giving this authority to anyone other than the Secretary of State and his representatives abroad would confuse foreign governments and prevent consideration of the cultural property issue in the context of all

outstanding bilateral issues. Action on cultural property issues should not be taken without considering the possible effect on other, unrelated issues between the two countries. Only State can ensure such comprehensive consideration. Cultural property disputes often touch upon very sensitive nationalistic sentiments, and the Act authorizes very serious law enforcement remedies. This is not simply the museum-exchange sort of issue U.S.I.A. is accustomed to handling.

U.S.I.A. argues that this is within its area of expertise. Even State concedes that U.S.I.A. should be delegated all other Presidential functions under the Act. The Cultural Property Advisory Committee, which plays an important role in the statutory process, was placed by law in U.S.I.A., see 19 U.S.C. § 2605, and the Advisory Committee strongly supports the U.S.I.A. position in this dispute. U.S.I.A. notes that it already possesses authority to negotiate international agreements, such as those under the Fulbright-Hays Act, and the conduct of American foreign relations seems to have survived this "fragmentation" of international negotiating authority. U.S.I.A. is very active in the cultural property area already, with many international contacts in the museum and preservation fields, and it would be confusing to foreign governments if U.S.I.A. did not have this negotiating authority. Finally, while these issues are very important to small groups in the United States and other countries, cultural property issues will seldom be in the forefront of bilateral relations. U.S.I.A. is concerned that these issues will become "lost" at State, to the detriment of effective implementation of the Convention.

Both NSC and OMB General Counsel have decided that U.S.I.A. has the better of the argument. Unless we object, OMB will circulate the U.S.I.A. draft for formal executive order clearance, with a cover memorandum noting State's disagreement.

I have no strong views on this dispute, but I tend to agree with NSC and OMB that the negotiating authority should be delegated to U.S.I.A. U.S.I.A. has most of the responsibility for administering this law already, and it would be confusing and inefficient to slice off one aspect and vest that in State. This would be particularly true if, as seems likely, these issues were to be high-priority at U.S.I.A. but low-priority at State. State's main argument, that international negotiating authority should not be fragmented, is appealing in the abstract but less so in this concrete case. It is very implausible that we would trade off concessions in the area of protecting cultural property (here, say, Eskimo totems) in exchange for concessions in other areas (say, acid rain). It strikes me that cultural property issues are by their nature discrete and severable, and need

not be viewed in every instance in the overall context of bilateral relations. In any event, as with any agency with international responsibilities, there is always the requirement of consultation with State.

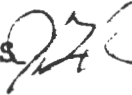
I recommend that we advise OMB that we have no objection to circulating the U.S.I.A. draft order, with a cover memorandum noting State's disagreement, as the vehicle for deciding this issue.

THE WHITE HOUSE

WASHINGTON

November 22, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: H.R. 3038 -- HUD/Independent Agencies Appropriations

David L. Chew has asked for your views by close of business today on H.R. 3038, the HUD/Independent Agencies Appropriations Bill for 1986. The bill provides \$60,826 million in budget authority, and, according to OMB, the spending levels are in the acceptable range. There are two provisions that raise constitutional concerns. The provision appropriating \$70 million to FEMA for an emergency food and shelter program specifies (p. 11) that the FEMA Director shall "constitute" a board to determine how the funds should be distributed. The bill specifies that six private charities "shall each designate a representative to sit on the national board." Deciding on the distribution of Federal relief funds is, of course, a function that can only be performed by a constitutionally appointed officer of the United States, and permitting private organizations to appoint the members of this board accordingly violates the Appointments Clause. Justice recommends a signing statement directing the FEMA Director to interpret the bill as giving him complete discretionary authority to decide who sits on the board. This problem has arisen before, and was handled in this manner.

Section 413 of the bill's general provisions (p. 23) contains language that seems destined to become boilerplate:

No part of any appropriation contained in this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

In his memorandum for the President OMB Director Miller states that "the Supreme Court's Chadha decision would make this prohibition unconstitutional." Putting aside the curious choice of tense, I disagree. "Applicable law of the United States" includes the Constitution and the Chadha decision. So interpreted, Section 413 is not unconstitutional. As we have discussed, language should be added to

the signing statement, explaining our understanding of this section. I suggest the following:

Section 413 of the bill provides that "[n]o part of any appropriation contained in this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States." The "applicable law of the United States" includes, of course, the Constitution and the decision of the Supreme Court in INS v. Chadha. Under the Constitution and that decision, the "resolution of disapproval" referred to in Section 413 must be a joint resolution presented to the President for approval or disapproval.

THE WHITE HOUSE

WASHINGTON

November 22, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: E.R. 3038 -- HUD/Independent
Agencies Appropriations

Counsel's Office has reviewed the above-referenced enrolled bill. I agree that the signing statement provided by the Department of Justice should be issued, but would add an additional paragraph to clarify our understanding of Section 413 of the bill. That section is not unconstitutional if "applicable law of the United States" is understood to include, as it must, the Constitution and the Chadha decision. To avoid future misunderstanding, our interpretation of this section should be made explicit in the signing statement. I suggest the following language:

Section 413 of the bill provides that "[n]o part of any appropriation contained in this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States." The "applicable law of the United States" includes, of course, the Constitution and the decision of the Supreme Court in INS v. Chadha. Under the Constitution and that decision, the "resolution of disapproval" referred to in Section 413 must be a joint resolution presented to the President for approval or disapproval.

FFF:JGR:aea 11/22/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 25, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Economic Policy Decision Memo:
Section 301 Proceedings Deadlines

David Chew has asked for comments as soon as possible on the attached Economic Policy Council decision memorandum for the President. You will recall that the President, on September 7, directed USTR to accelerate two pending Section 301 cases, on Japanese leather and European Community canned fruit. The President set a December 1 deadline for a negotiated resolution of those cases. It now appears that a negotiated settlement will not be reached by December 1.

The Economic Policy Council decision memorandum recommends that the President retaliate by imposing prohibitive tariffs on specified Japanese products (including products unrelated to the dispute) and European Community canned fruit. These actions are within the President's authority under Section 301, 19 U.S.C. § 2411, which authorizes him to "take all appropriate and feasible action," and in particular authorizes action with respect to any goods "without regard to whether or not such goods...were involved in the [unfair trade practice]." 19 U.S.C. § 2411(a). Imposition of duties is specifically authorized, 19 U.S.C. § 2411(b)(2).

It appears that the procedural requirements of Section 301 have been met. In so concluding, it is important to recall that these two cases are very unusual. They were not developed in response to petitions, nor were these two cases USTR self-initiated investigations. The Japanese case arose from a GATT proceeding. The canned fruit case was the subject of a petition, but according to USTR all the action required of the President in response to a petition has long since been taken. The petition stage of the case is, according to USTR, concluded. These two cases fall under 19 U.S.C. § 2411(d), which authorizes the President to take action on his own motion. That section requires an opportunity for the presentation of views. I contacted USTR General Counsel who advised that the requirement had been met through public hearings held by USTR.

Attachment

THE WHITE HOUSE

WASHINGTON

November 25, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Economic Policy Decision Memo:
Section 301 Proceedings Deadlines

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

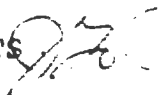
FFF:JGR:aea 11/25/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 25, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Request to Quote President Reagan
in Ad for the Wall Street Journal

A Chicago business publishing company, Dartnell, wants to run an advertisement in the Wall Street Journal quoting from the President's recent address to the United Nations. A copy of the advertisement is attached. It does not in any way suggest an endorsement by the President of Dartnell, and accordingly I have no objection to the company quoting the President's public comments. The attached draft reply for your signature notes that White House approval is not necessary to quote statements by the President, so long as the statements are not used in a misleading manner to suggest commercial endorsement.

Attachment

THE WHITE HOUSE

WASHINGTON

November 25, 1985

Dear Mr. Pearl:

Thank you for your letter of November 19, requesting approval to quote from the President's recent address to the United Nations in an advertisement you plan to run in the Wall Street Journal. A copy of the proposed advertisement accompanied your letter.

Please be advised that approval is not required to quote from the President's public statements. We would object to any use of a quotation that suggested endorsement by the President of any commercial product or enterprise, but that problem is not presented by your proposed advertisement.

Thank you for your inquiry.

Sincerely,

Richard A. Hauser
Deputy Counsel to the President

Mr. Charles E. Pearl
Manager, Film Sales
Dartnell
4660 N. Ravenswood Avenue
Chicago, Illinois 60640

RAH:JGR:aea 11/25/85
bcc: FFFielding
RAHauser
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 26, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Economic Policy Council Memorandum:
Presidential Trade Commission

David Chew has asked for comments by Monday, December 2, on a decision memorandum for the President from the Economic Policy Council. Two issues are presented: whether to establish a Presidential Commission on International Trade and Economic Policies, and, if so, whether to include members of Congress on the Commission.

The decision memorandum contemplates a purely advisory role for the Commission, so there are no legal obstacles to establishing it and no purely legal objections to appointing members of Congress to serve on it. In noting that we have no legal objections, however, I think we should point out that the Commission must be established under and must operate in accord with the Federal Advisory Committee Act (FACA). We should also note the more prominent requirements of FACA, including the balanced membership and open meetings requirements. We should insist that the Commission be "housed" in one of the departments and not the White House. Finally, since we often object to Congress creating mixed legislative-executive entities, even if purely advisory, we should weigh-in on the side of not appointing members of Congress to the Commission.

Attachment

THE WHITE HOUSE

WASHINGTON

November 26, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Economic Policy Council Memorandum:
Presidential Trade Commission.

I have reviewed the proposed decision memorandum for the President prepared by the Economic Policy Council, and have no objection to it going forward to the President. Two issues are presented: whether to establish a Presidential Commission on International Trade and Economic Policies, and, if so, whether to include members of Congress on the Commission.

The President may establish a Presidential Commission on International Trade and Economic Policies, provided that the Commission is restricted to a purely advisory role. Such an advisory committee, which would be established by Executive Order, would be subject to the provisions of the Federal Advisory Committee Act (FACA). Among other things, FACA requires advisory committees to have a "balanced membership" and generally to hold open meetings. The advisory committee, if created, should be housed for administrative purposes in one of the departments, not at the White House.

The possible appointment of members of Congress to the advisory committee does not raise constitutional concerns under the Appointments Clause, because the committee would be restricted to advisory functions. Nonetheless, we often object on policy grounds when Congress creates mixed legislative-executive entities, even if purely advisory, and I would hesitate to create such an entity ourselves in the absence of very persuasive policy or tactical reasons.

FFF:JGR:aea 11/26/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE
WASHINGTON

11/26

TO: FFF

FROM: John G. Roberts, Jr.
Associate Counsel
to the President *JGR*

- FYI
- COMMENT
- ACTION

AS WE DISCUSSED.

THE WHITE HOUSE

WASHINGTON

November 26, 1985

MEMORANDUM FOR FREDERICK J. RYAN, JR.
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SCHEDULING

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Scheduling Recommendation

You have asked for my views on a request that the President serve as honorary chairman of and/or attend a dinner at which Ross Perot will receive the Winston Churchill Award. The dinner will be a fundraiser for the Winston Churchill Foundation of the United States.

Established White House policy generally restricts acceptance of honorary chairmanships to those charitable organizations with which the President has been personally involved or with which the Presidency has been traditionally associated. This Foundation does not fall within either exception. It is, of course, not illegal for the President to agree to this request, and an exception to the established policy can be made if the President so desires.

FFF:JGR:aea 11/26/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 14, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS

SUBJECT:

Scheduling Recommendation

Fred Ryan has asked for our views on a request that the President serve as honorary chairman of and/or attend a dinner at which Ross Perot will become the third recipient of the Winston Churchill Award. The award is given by the Winston Churchill Foundation of the United States, which provides scholarships and fellowships for Americans to study at Churchill College, Cambridge University. The letter to Fred Ryan notes that the award dinner is expected to raise \$1.5 million for the Foundation.

This request appears to be covered by the usual honorary chairmanship policy: since this is neither a charity with which the President is personally involved or was personally involved prior to assuming office, nor a charity with which the Presidency is traditionally associated, the request should be declined. Further, a message should not be sent, since the dinner is a private fundraising event, and our established policy generally precludes endorsing particular fundraisers.

Ryan's note to you suggests this was discussed at the long range scheduling meeting; I am of course not privy to what was said at that time.

Attachment

*I want to know what is behind all this (award, etc.)
J.G.R.*

THE WHITE HOUSE

WASHINGTON

November 26, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: 1985 Counsel's Office Christmas Party --
Exemption from Prohibition Against the Use
of Alcoholic Beverages on Federal Property

Attached for your review and signature is a memorandum for Donald Regan requesting an exemption from the regulations prohibiting use of alcoholic beverages on Federal property, which in turn attaches a proposed memorandum from Regan (with copy to OEOB Assistant Building Manager Jeter A. Morris) granting the exemption.

The attachments are based on the memoranda used for our past Christmas parties. I have checked that the relevant regulation remains substantively unchanged, and have also called Morris to ensure that only he need be copied on Regan's memorandum granting the exemption.

Attachments

THE WHITE HOUSE

WASHINGTON

November 26, 1985

MEMORANDUM FOR DONALD T. REGAN
CHIEF OF STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Exemption from Prohibition Against the Use
of Alcoholic Beverages on Federal Property

Part 101-20.307 of the Federal Property Management Regulations (41 C.F.R. § 101-20.307) provides that "[t]he use of alcoholic beverages on [Federal] property is prohibited except, upon occasions and on property upon which the head of the responsible agency or his or her designee has for appropriate official uses granted an exemption in writing." The appropriate building manager is to be notified of all exemptions.

The Counsel's Office has scheduled its fifth annual Christmas Party for Tuesday, December 17, 1985, from 5:00 to 7:00 p.m., in the Indian Treaty Room of the Old Executive Office Building. Accordingly, we request that, consistent with decisions on this issue in 1981, 1982, 1983 and 1984, you sign the attached memorandum granting, for this occasion, an exemption from the alcoholic beverage prohibition. OEOB Assistant Building Manager Jeter A. Morris is copied on the memorandum.

Thank you.

FFF:JGR:aea 11/26/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 26, 1985

MEMORANDUM FOR FRED F. FIELDING
COUNSEL TO THE PRESIDENT

FROM: DONALD T. REGAN
CHIEF OF STAFF

SUBJECT: Exemption from Prohibition Against the Use
of Alcoholic Beverages on Federal Property

Pursuant to your request and consistent with the provisions of Part 101-20.307 of the Federal Property Management Regulations (41 C.F.R. § 101.20.307), this is to advise you that alcoholic beverages may be served at the White House Counsel's Office Christmas Party, scheduled for Tuesday, December 17, 1985, from 5:00 to 7:00 p.m., in the Indian Treaty Room of the Old Executive Office Building.

cc: Jeter A. Morris
GSA Assistant Building Manager
Old Executive Office Building

DTR:JGR:aea 11/26/85

bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 26, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Christmas Party Invitation

Unless you disagree, I propose to use the same style invitation for our Christmas party, mutatis mutandis, as was used last year. The only change I am considering is a more festive color of ink (green). A sample of last year's invitation is attached. Any views?

FYI - MARINE BAND COMBO CONFIRMED.

The Office of Counsel to the President

*requests the pleasure of your company
at a Holiday Reception on
Tuesday, December 18, 1984
five until seven o'clock*

*RSVP
456-2674*

*Indian Treaty Room,
Old Executive Office Building*

THE WHITE HOUSE

WASHINGTON

November 26, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Portal-to-Portal

You have asked for a status report on the portal-to-portal bill. The Administration-supported Brooks bill, H.R. 3614 (Tab A), has been ordered reported without amendment, but no report has yet been filed. OMB advises that if the bill goes to the floor it will probably be considered under the suspension calendar. Senator Proxmire has introduced a rival bill, S. 1842 (Tab B), that would authorize portal-to-portal for those currently covered by 31 U.S.C. § 1344 and, in addition, (1) the Vice President, (2) the Chief Justice, and (3) up to 13 executive branch officials designated by the President.

THE WHITE HOUSE

WASHINGTON

October 30, 1985

John G. Roberts
get a copy of the
update for me
11/17

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Portal-to-Portal

at is consistent with our discuss.

You have asked for my comments on Chris Hicks's memorandum to ~~Mr. Regan~~, analyzing the portal-to-portal bill that Chairman Brooks is prepared to introduce. I have no quarrel with Hicks's analysis, nor with the recommendation of Hicks and Horowitz that we support the bill. I have attached a copy of the bill itself for your information (the marginalia are not mine).

The main problem with the Brooks bill from our point of view is not the scope of coverage -- which will work out to about the same as our bill -- but the manner in which the service is authorized. The Brooks bill has precisely what we tried to avoid -- discretion in the President to choose who does and does not receive portal-to-portal. The President may choose six officials in the EOP and ten others in executive agencies, with no salary level limitation.

Aside from these chosen sixteen, the Brooks bill authorizes portal-to-portal for the Cabinet Secretaries and the United States Trade Representative, one principal deputy for each of these if authorized by the Secretary, ambassadors abroad and the ambassador to the United Nations, the Deputy Secretary of Defense and Under Secretaries of Defense, as well as the Secretaries of the Air Force, Army, and Navy, and the Joint Chiefs and the Commandant of the Coast Guard. The Director of the CIA and FBI, and the Chairman of the Fed, are also covered. There is also authority for temporary emergency portal-to-portal, and for those receiving Secret Service protection.

I think we should support the bill, faute de mieux. If we do not support this bill we will end up with no bill, and I think the current confusion is intolerable. The exercise of the President's discretion will doubtless become a major controversy, but at this point I think that is unavoidable.

Latest development: Congressman Bob Walker (R-PA) has told Brooks he will offer amendments to the bill restricting Congressional portal-to-portal. Walker apparently views this as an opportunity to embarrass the Democratic leadership on the Hill. Unless we get Walker to back off, Brooks will not proceed with the bill.