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Ronald Reagan Library

Collection Name ROBERTS, JOHN G.: FILES

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File Folder [JGR/APPOINTEE CLEARANCES - 08/29/1985-09/30/1985]

FOIA

F05-139/01

Box Number 3

COOK

22 KDB

Doc No	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	J. ROBERTS TO RICHARD HAUSER RE PROSPECTIVE APPOINTEE (THIS DOCUMENT HAS BEEN RELEASED IN WHOLE)	2	8/29/1985	B6	379
2	MEMO	ROBERTS TO DIANNA HOLLAND, RE: REAPPOINTMENT OF RICHARD CHAVEZ TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (THIS DOCUMENT HAS BEEN RELEASED IN WHOLE)	1	9/23/1985	B6	1167
3	MEMO	ROBERTS TO FRED FIELDING RE APPOINTMENTS TO COMMISSION OF FINE ARTS (PARTIAL)	1	9/27/1985	B6	380
4	MEMO	CATHERINE BEDELL TO JANE DANNEHAUER, RE: PA AND PAS CANDIDATE WITHDRAWALS (PARTIAL)	1	9/30/1985	B6	1168

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

August 29, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Appointment of Richard Morris to the
Permanent Committee for the Oliver
Wendell Holmes Devise

As we have discussed, I am returning this file to you. The Committee supervises the publication of a multi-volume history of the Supreme Court, as provided in the last will and testament of Justice Holmes. The volumes that have been published to date are generally regarded as the authoritative historical works, containing more raw data than analysis. The Librarian of Congress serves ex officio on the Committee, and the President appoints four members, one each from lists of three provided by the American Historical Association, the Association of American Law Schools, the American Philosophical Society, and the Association of American Universities.

Morris's Personal Data Statement presents no problems. He is an emeritus professor at Columbia, has published numerous historical works, and is regarded as the authority on John Jay. He has been President of the American Historical Association, and is the Chairman of the Supreme Court Historical Society's Constitution Bicentennial Planning Committee.

As you know, his name check revealed allegations of Communist Party activity 50 years ago, and publication of a book characterizing the Alger Hiss case as a "miscarriage of justice." With respect to the latter point, it may be noted that many were duped into taking the Hiss side, including Justice Felix Frankfurter. On the other hand, the President did award the Medal of Freedom to Hiss antagonist Whitaker Chambers, and may have strong feelings about appointing a "Hiss sympathizer" to anything. As for the Communist Party allegations, it is impossible to assess the credibility of a confidential source.

On balance, I do not think the President could be fairly subject to criticism for appointing a distinguished expert in the area such as Morris, nominated by the American Historical Association. The Communist Party allegations may be totally groundless -- they were raised in 1949 -- and

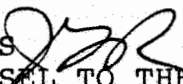
concerned activity 50 years ago. Morris is certainly not now regarded as a Communist, nor is his work reflective of the Communist view.

THE WHITE HOUSE

WASHINGTON

August 29, 1985

MEMORANDUM FOR MICHAEL HOROWITZ
COUNSEL TO THE DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Your Memorandum of July 19 on Deliberative
Privilege and the Confirmation Process

Fred has asked me to review the above-referenced memorandum you sent to him, the Attorney General, and B. Oglesby on July 19. I certainly concur that we should take whatever steps are necessary to ensure that the general opening of files to Hill scrutiny as occurred in the Reynolds confirmation process does not become routine. The Reynolds case was unusual in that the Administration had precious little leverage; I would hope that with most nominations we would be in a better position to resist committee demands.

I do not know if it will do any good to raise the matter in the abstract at this point with Dole and Thurmond; perhaps B. and his colleagues can give us a better sense of that. I suspect that any vague assurances in the abstract from the Hill would be readily swept away by the dynamics of a particular future confirmation dispute, and that the most we can do is to ensure proper sensitivity to the deliberative privilege when that future dispute arises.

In any event, by 2001 Hill staffers need only go to the Reagan Library to see any internal White House deliberative document they want to see -- at least under the current, untested provisions of the Presidential Records Act. The pernicious effect of that statute will have to be addressed in any effort to revitalize the deliberative privilege.

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

FE01001
gbr

- ☐ **O - OUTGOING**
☐ **H - INTERNAL**
☐ **I - INCOMING**
 Date Correspondence Received (YY/MM/DD) 1 / 1

Name of Correspondent: Mike Harouni

☐ **MI Mail Report** **User Codes:** (A) _____ (B) _____ (C) _____

Subject: Inroads on the Deliberative Privilege through the Confirmation Process

ROUTE TO:		ACTION		DISPOSITION	
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
<u>CUN Hall</u>		ORIGINATOR	<u>85.07.19</u>		<u>1 / 1</u>
		Referral Note:			
<u>Mat 18</u>		<u>Rv</u>	<u>85.07.19</u>	<u>a</u>	<u>S 85.07.29</u>
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		Referral Note:			

- ACTION CODES:**

 - A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
 - I - Info Copy Only/No Action Necessary
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply
- DISPOSITION CODES:**

 - A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended
- FOR OUTGOING CORRESPONDENCE:**

Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

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 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 19, 1985

333419 *cu*

MEMORANDUM TO: Edwin Meese, III
Fred F. Fielding ✓
B. Oglesby

FROM: Mike Horowitz *MH*

SUBJECT: Inroads on the Deliberative Privilege Through
the Confirmation Process

I want to call attention to an issue that in my opinion is of surpassing importance to the President and the entire Executive Branch. In two recent instances (one involving EM, III the other Brad Reynolds) the Senate Judiciary Committee required, as a condition of conducting confirmation hearings, near-full access to files relative to the prior service of those individuals.

Through this procedure, the Committee obtained access to sensitive pre-decisional advice provided by two senior officials that the Executive Branch would not have disclosed if the Committee had sought access directly. In effect, the nominees were held hostage until the Executive agreed not to assert the deliberative privilege for documents authored by or, sent those officials. So far as I can determine, the scope of these demands was unprecedented.

This development raises profound constitutional and operational questions. The facts of each case were unique, and disclosure was undoubtedly justified under the circumstances. I am concerned, however, that unless we forcefully take up the issue with Congress, an unfortunate precedent may have been established which will impair substantially the ability of this and future Presidents to manage the Executive Branch.

We have long taken the position that the Constitution protects against disclosure to Congress certain communications pertinent to the decisionmaking process within the Executive branch. The privilege is not absolute -- it can be waived or overcome by a compelling and specific need for particular information. But this principle generally would prevent Congress from obtaining access to predecisional memoranda and letters authored by senior White House and agency officials, and it is quite likely that the privilege would be invoked if a Committee submitted a blunderbuss request for all such documents. In the two recent instances, however, the Committee has utilized its leverage over nominees to

extract a commitment from the Administration to release this material. The pressing issue is whether the practice will become institutionalized.

The adverse consequences that justify the deliberative privilege -- encouragement of full and frank expression of views in order to promote sound decisionmaking -- are fully implicated by the Committee demands. If this practice becomes prevalent, this and all future Administrations will be substantially harmed. The ablest junior officials -- the traditional source of recruitment for successors to initial appointees -- will be less forthcoming with their policy advice, in order to avoid future confirmation problems. (Often, as you know, internal positions are taken by individuals in order to influence policy outcomes, not necessarily to reflect their ultimate views.) And, the Executive Branch will be deterred from promoting its best talents if the price is compromising the integrity of the deliberative process. The problem obviously is most severe for communications between the President and his immediate staff. But the issue is still compelling even if the demands were limited to communications within an agency or between the agency heads and the White House.

In my opinion, we need to alert Bob Dole and Strom Thurmond to the threat this practice presents to the Presidency and to seek their assurance that nominees will not hereafter be subjected to wholesale disclosure of deliberative files.

cc: Joe Wright

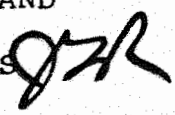
THE WHITE HOUSE

WASHINGTON

September 3, 1985

MEMORANDUM FOR DIANNA G. HOLLAND

FROM:

JOHN G. ROBERTS 

SUBJECT:

Appointment of Dennis Stanfill to the John F. Kennedy Center for the Performing Arts Board of Trustees

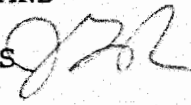
I have reviewed the Personal Data Statement submitted by the above-named individual in connection with his prospective appointment to the JFK Center for the Performing Arts Board of Trustees. The President is authorized to appoint 30 general trustees to this board under 20 U.S.C. § 76h(a). The duties of the Board consist of maintaining and administering the Kennedy Center. Mr. Stanfill satisfies the only statutory requirement for trustees, i.e., that they be citizens of the United States. He served as Chairman of the Board of Twentieth Century-Fox from 1971 to 1981, and is currently suing the firm for breach of his employment contract (for retirement payments). I do not think this litigation should preclude this appointment, and I see no other legal problems.

THE WHITE HOUSE

WASHINGTON

September 3, 1985

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS 

SUBJECT: Appointments of Mae Sue Talley, Rodney W. Rood, Joseph R. Reppert, Wells B. McCurdy, Anna Chennault, and Dennis V. Alfieri to the Commission on Presidential Scholars

The Commission on Presidential Scholars was established by Executive Order 11155, as amended (May 23, 1964). The function of the Commission is to select, each year, the Presidential Scholars from among graduating high school seniors. Pursuant to Section 1 of the Order, the President may appoint an unspecified number of members to the Commission "from among appropriately qualified citizens of the United States."

Dennis Alfieri is vice president of a construction and development company, and a White House advancement. He has been active in California politics and numerous youth services organizations. Anna Chennault is President of TAC International and serves on dozens of commercial and public service boards. Wells McCurdy is an industrial consultant and chairman of a luxury yacht charter service. Joseph Reppert is president of a residential real estate lender in Florida. Rodney Rood is vice president emeritus of Atlantic Richfield, and has served on the boards of several charitable organizations. Mae Sue Talley is now retired, but served as a business consultant and president of a resort hotel in Arizona. She also served as vice chairman of the Defense Department Advisory Commission on Women in the Services and is presently a consultant to NASA. I have no objection to these appointments.

I have not yet received a PDS from Carlos Benitez.

Attachment

THE WHITE HOUSE

WASHINGTON

September 3, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING >

All necessary clearances have been accomplished with regard to the following individual and she is ready for formal nomination by the President:

Patricia M. Byrne - Deputy Representative of the United States
and the Security Council of the United
Nations, with the rank of Ambassador

cc: Catherine Bedell
Jane Dannenhauer
Richard Hauser
John Roberts

THE WHITE HOUSE

WASHINGTON

September 3, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

William Lucas - Member, Commission on the Bicentennial of the U.S. Constitution

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

WASHINGTON

September 4, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING >

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

Dennis Stanfill - Member, John F. Kennedy Center for the Performing Arts Board of Trustees

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

WASHINGTON

September 4, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individuals and they are ready for appointment to the the Commission on Presidential Scholars:

Dennis V. Alfieri
Anna Chennault
Wells B. McCurdy
Joseph R. Reppert
Rodney W. Rood
Mae Sue Talley

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

WASHINGTON

September 9, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING \.

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

William M. Taylor - Member, National Highway Safety Advisory
Committee

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 9, 1985

The President today announced his intention to appoint Dennis Stanfill to be a Member of the Board of Trustees of the John F. Kennedy Center for the Performing Arts for the remainder of the term expiring September 1, 1988. He would succeed Frances Breathitt.

He is President of Stanfill, Doig & Company, an investment company in Los Angeles, California. Previously, Mr. Stanfill was Chairman of the Board and Chief Executive Officer of Twentieth Century-Fox in 1971-1981. He joined Twentieth Century-Fox in 1969 as Executive Vice President-Finance and as a member of the company's Board of Directors and Executive Committee. Previously, he was Vice President, Finance, at the Times Mirror Company, Los Angeles.

He is Chairman of the Board of Directors of KCET, public television for Southern California; a Trustee and member of the Executive Committee of the California Institute of Technology; and a member of the Board of Governors of the Performing Arts Council of the Music Center.

Mr. Stanfill graduated from the U.S. Naval Academy (B.S., 1949). He was selected for a Rhodes Scholarship to Oxford University (England) where he received a M.A. in 1953. He is married, has three children and resides in San Marino, California. He was born April 1, 1927 in Centerville, Tennessee.

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THE WHITE HOUSE

WASHINGTON

September 12, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

Richard B. Morris - Member, Permanent Committee for the Oliver
Wendell Holmes Devise

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

WASHINGTON

September 12, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING 

All necessary clearances have been accomplished with regard to the following individual and he is ready for formal nomination by the President:

Dennis L. Bark - Member, Board of Directors,
U.S. Institute of Peace

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

WASHINGTON

September 12, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING /

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

Thomas Moses - Member, John F. Kennedy Center Advisory Committee

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

September 16, 1985

The President today announced his intention to nominate Thomas W. Moses to be a Member of the Advisory Committee on the Arts (John F. Kennedy Center for the Performing Arts). This is an initial appointment.

Since 1969 he has been serving as Chairman of the Board of the Indianapolis Water Company. Previously, he was Chairman of the Board of the First National City Bank of Minneapolis.

He serves as Chairman of the Board and Director of Compucom Development Corporation; Director of Merchants National Bank & Trust Company; Director of Merchants National Corporation; and Director of Park Fletcher, Inc. He is Vice Chairman of the Capital Fund for the Indianapolis Ballet League and Honorary Chairman of the Capital Fund for the Indianapolis Art League.

He graduated from Washington & Lee University (A.B., 1939) and Yale University (LL.B., 1942). He is married, has three children and resides in Indianapolis, Indiana. He was born January 30, 1919 in Benton, Illinois.

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THE WHITE HOUSE

WASHINGTON

September 16, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for formal nomination by the President:

Robert L. Barry - for the Rank of Ambassador during the tenure of his service as United States Representative to the Conference of Confidence and Security Building Measures and Disarmament in Europe

cc: Catherine Bedell
Jane Dannenhauer
Richard Hauser
John Roberts

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 17, 1985

The President today announced his intention to appoint Richard B. Morris to be a Member of the Permanent Committee for the Oliver Wendell Holmes Devise for a term of eight years. He will succeed Philip B. Kurland.

Dr. Morris is the Gouverneur Morris Professor Emeritus of History at Columbia University. Prior to teaching at Columbia University, he was a professor at City University. He was a visiting professor at the University of Hawaii and Princeton University; a distinguished professor at the Free University of Berlin; and a Fulbright Research Scholar at the Sorbonne. He has served as President of the American Historical Association and of the Society of American Historians. He received a New York State Special Citation for Historic Preservation in 1982.

He graduated from City College of New York (A.B., 1924); Columbia University (A.M., Ph.D., 1925, 1930), Hebrew Union College (L.H.D., 1963). He received his Litt.D. in 1976 from Columbia University and Rutgers University. He is married, has two children and resides in Mount Vernon, New York. He was born July 24, 1904 in New York City.

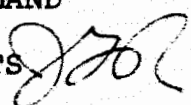
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THE WHITE HOUSE

WASHINGTON

September 23, 1985

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS 
SUBJECT: Reappointment of Richard Chavez to the
Architectural and Transportation Barriers
Compliance Board

Pursuant to 29 U.S.C. § 792(a)(1)(A) the President is authorized to appoint eleven members to this Board from the general public, of whom five shall be handicapped individuals. Reappointments are authorized, but no member may be reappointed more than once without a hiatus of at least two years in Board service. It is the function of the Board to ensure compliance with the Architectural Barriers Act of 1968 and to explore and report on various issues relating to access by the handicapped. See 29 U.S.C. § 792(b).

Richard Chavez is President of a training institute for the handicapped. A victim of polio, he is handicapped himself. This is Chavez's first reappointment. I have no objection.

THE WHITE HOUSE
WASHINGTON

September 23, 1985

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Reappointment of Richard Chavez to the
Architectural and Transportation Barriers
Compliance Board

Pursuant to 29 U.S.C. § 792(a)(1)(A) the President is authorized to appoint eleven members to this Board from the general public, of whom five shall be handicapped individuals. Reappointments are authorized, but no member may be reappointed more than once without a hiatus of at least two years in Board service. It is the function of the Board to ensure compliance with the Architectural Barriers Act of 1968 and to explore and report on various issues relating to access by the handicapped. See 29 U.S.C. § 792(b).

Richard Chavez is President of a training institute for the handicapped. [REDACTED] he is handicapped himself. This is Chavez's first reappointment. I have no objection.

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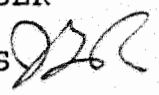
THE WHITE HOUSE

WASHINGTON

September 24, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS 

SUBJECT:

Appointment of Kay Orr to the John F.
Kennedy Center for the Performing Arts
Advisory Committee

A draft to Tuttle for your signature is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

September 24, 1985

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

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Appointment of Kay Orr to the John F.
Kennedy Center for the Performing Arts
Advisory Committee

Thank you for advising that Kay Orr is "a museum follower and is supportive of the arts," and that she is a trustee of a college engaged in expanding its arts facilities. Based on your representations that Mrs. Orr is "supportive of the arts" and involved in the Hastings College arts expansion, this office will not object to proceeding with her appointment. The fact that she is a "museum follower" is irrelevant, since museum arts are not one of the arts covered by the Kennedy Center. And the fact that the Committee's function is fundraising is also irrelevant, since the statute sets out specific criteria for appointees. 20 U.S.C. § 76h(c).

RAH:JGR:aea 9/24/85
cc: FFFielding
RAHauser
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

September 17, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

ROBERT H. TUTTLE

RT

SUBJECT:

APPOINTMENT OF KAY ORR TO THE JOHN F. KENNEDY
CENTER FOR THE PERFORMING ARTS, ADVISORY COMMITTEE

In regards to your memorandum concerning Kay Orr's lack of arts experience, we have spoken with her office. She is a museum follower and is supportive of the arts. She is also on the Board of Trustees of Hastings College. The college is currently building an enormous arts and communications center that is expected to be finished in the Spring of 1986.

However, this Advisory Committee is strictly a fundraising committee and we would very much like to see Kay Orr as a Member.

Please advise.

THE WHITE HOUSE

WASHINGTON

September 25, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

Richard Chavez - Member, Architectural and Transportation
Barriers Compliance Board

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

WASHINGTON

September 26, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING >

All necessary clearances have been accomplished with regard to the following individual and she is ready for appointment by the President:

Kay Orr - Member, John F. Kennedy Center for the Performing Arts
Advisory Committee

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

WASHINGTON

September 26, 1985

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

FROM: FRED F. FIELDING Orig. signed by FFF
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.

On March 28, 1985, the Legal Adviser at State and the Acting General Counsel at Treasury made a joint recommendation of four candidates. At this point, I have requested the new incumbents for recommendations. Upon receipt I will forward the same to you with my comments.

FFF:JGR:aea 9/26/85

cc: FFFielding

JGRoberts

Subj

Chron

140 State and Treasury... have ~~added~~ requested the most... for... the same to you with... in... counts.

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

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Ann

above should be
last para. Thanks

THE WHITE HOUSE

WASHINGTON

July 12, 1985

MEMORANDUM FOR FRED F. FIELDING

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
FFFielding
JGRoberts
Subj.
Chron.

INTERNATIONAL CENTRE (CENTER) FOR THE SETTLEMENT OF
INVESTMENT DISPUTES,
PANEL OF ARBITRATORS OF THE

Department of State

AUTHORITY: 22 U.S.C. 1650
P.L. 89-532, 80 Stat. 344, August 11, 1966
Convention on the Settlement of Investment Disputes (Exec. A, 89th 2nd), approved by the Senate May 16, 1966, ratified by the President on June 1, 1966. (Chapter I, Section 4, Article 12, Article 13(1), Article 15 (1) (2) (3), Chapter VI, Article 60 (1) (2).)

METHOD: Designated by the President

MEMBERS: FOUR

TERM: Renewable periods of six years. Vacancies shall be designated only for the unexpired term of his predecessor. Panel members shall continue in office until their successors have been designated. (HOLDOVERS)

SALARY: No compensation. Only when a Conciliator or an Arbitrator is chosen to act on a Panel will remuneration be awarded and the rate is set by the parties to the dispute.

PURPOSE: Represent the United States on the Panel of Arbitrators.

file w/memo
KL Typed

International Centre for Settlement of Investment Disputes

March 1, 1966

DESIGNATION OF PANEL MEMBERS BY CONTRACTING STATES

Article 13(1) of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States authorizes each Contracting State to designate four persons to the Panel of Conciliators and four persons to the Panel of Arbitrators. The purpose of this note is to encourage States to make these designations as soon as possible and to assist them in this procedure.

1. Qualifications of Panel Members

Article 14(1) of the Convention provides that:

"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."

Neither the Report of the Executive Directors accompanying the Convention (see para. 21) nor the Administrative and Financial Regulations of the Centre (ICSID/L, Part A; see Regulation 20) add any additional qualifications or define those stated in the Convention.

It is of course highly desirable that the members of both Panels be men of distinction, whose appointment will reflect credit both on the appointing authority and on the Centre. It may be expected that, at least to some extent, the Centre will be judged by the international reputation of its Panel members, and that the utilization of the facilities of the Centre will be encouraged by the listing of outstanding personalities.

2. Disqualifications from Service on the Panels

The Convention does not establish any special disqualifications from service on either of the Panels. The Administrative and Financial Regulations provide only one restriction: that no member of the Secretariat of the Centre may serve on either Panel.

Contracting States are not required to restrict their designations to their own nationals.

There is no bar against the designation of government officials. However, since Panel members are normally to serve for six years, it

will not be practical to have the holder of a particular office always represented on the Panel. In addition, account should be taken of the possibility that the service of a high government official on a particular Commission or Tribunal constituted by other parties might, in certain instances, be politically embarrassing to his Government.

Although the Convention does not state that any particular national or international office is incompatible with service on the Panels, such incompatibility might arise from the rules relating to such other office. Thus the judges of certain courts are prohibited from performing any outside functions. While service on the Panel itself involves no duties and therefore might not be considered as an incompatible function, service on a Commission or Tribunal might be--and persons should not be appointed to a Panel who normally could not accept appointment to Commissions or Tribunals.

3. Duties of Panel Members

Service on both Panels is entirely voluntary. While a State will usually consult the persons it intends to designate, Administrative and Financial Regulation 20(3) requires the Secretary-General to ask each designee personally whether he is willing to serve.

Listing on a Panel does not require a member to accept appointment to any particular Commission or Tribunal. Such an appointment can only be made if the person concerned formally accepts it.

4. Benefits of Service on a Panel

No person receives compensation for mere service on a Panel. However, service on a Commission or Tribunal will normally be compensated in accordance with Article 60 of the Convention.

Only persons listed on the Panels may be appointed by the Chairman of the Administrative Council to serve on a Commission or Tribunal, or on an ad hoc Committee established pursuant to Article 52(3) of the Convention. While the parties to a dispute are not so restricted, they are more likely to appoint Panel members than persons not so listed.

5. Method of Making Designations

Article 16(3) of the Convention requires that designations be made by notifying them to the Secretary-General of the Centre. Administrative and Financial Regulation 20(2) further requires that:

"Each designation made by a Contracting State...shall indicate the name, address and nationality of the designee, and include a statement of his qualifications, with particular reference to his competence in the fields of law, commerce, industry and finance."

It is not required that all four members of either Panel be designated at the same time. Thus one or more designations can be made now, with others following later.

6. Timing of Designations

Since the making of designations to the Panel is a privilege and not an obligation, no time limit is stated for Contracting States to act. However, it is hoped that governments will take into account that the Centre can only function imperfectly until a sufficient number of persons have been appointed to its Panels.

THE WHITE HOUSE

WASHINGTON

September 27, 1985

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

FROM: RICHARD A. HAUSER *Original signed by RAH*
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Scheduling Request for Presentation of
the Interim Report from the President's
Commission on Organized Crime by
Chairman Irving R. Kaufman

You have asked for our views on a request from Chairman Irving Kaufman of the President's Commission on Organized Crime for a meeting with the President during the week of October 21, to present another interim report of the Commission. While this office would have no objection to such a meeting with the President, we also do not consider it necessary. Chairman Kaufman was granted a meeting with the President to present an earlier interim report of the Commission on October 25, 1984. He will doubtless request a meeting to present the final report of the Commission in March 1986. I see no reason to grant this request for a grand total of three ceremonial presentations, when many Presidential commissions have none at all.

RAH:JGR:aea 9/27/85

cc: FFFielding
RAHauser
✓JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

September 27, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Appointment of Diane Wolf and
Pascal Regan to the Commission
of Fine Arts

By memorandum dated July 31 for Bob Tuttle, you cleared six prospective appointees for the Commission of Fine Arts. You noted, however, the statutory requirement that the appointees be "well-qualified judges of the fine arts," 40 U.S.C. § 104, [REDACTED] B6

FOIA(b) (6)

[REDACTED]

[REDACTED] The attached memorandum to Borchard tells her she may go forward if she is satisfied. B6

Attachment

THE WHITE HOUSE

WASHINGTON

September 27, 1985

MEMORANDUM FOR SUSAN BORCHARD
ASSOCIATE DIRECTOR
PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Appointment of Diane Wolf and
Pascal Regan to the Commission
of Fine Arts

Thank you for your memorandum of September 23, detailing the reasons you believe Diane Wolf and Pascal Regan may be considered "well-qualified judges of the fine arts." My memorandum of July 31 cleared these two and the other prospective appointees to the Commission of Fine Arts; my additional comments were simply intended to alert you to possible criticism of the appointments. If you are satisfied, you may proceed with the appointments.

FFF:JGR:aea 9/27/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE
WASHINGTON

Handwritten: comment to me, 10/5

September 23, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

SUSAN BORCHARD *Susan Borchard*

SUBJECT:

Qualifications of Diane Wolf and Pascal Regan to serve as Members on the Commission of Fine Arts

This is to address the questions your office has regarding the qualifications of Diane Wolf and Pascal Regan to serve as Members on the Commission of Fine Arts.

Dinae Wolf is well known and respected by the New York art community. J. Carter Brown, the Director of the National Museum of Art, and Clement Conger, the Curator of the White House, would both serve as references for her credentials.

Miss Wolf worked for five years, from 1979 to 1984, with the Metropolitan Museum of Art, and through her family has had great involvement with art her entire life. Her family has a major collection of Federal art and furniture and they have donated a room to the Metropolitan Museum of Art. She has loaned pieces to the Metropolitan Museum of Art, the Houston Art Museum and the Denver Art Museum. Currently, she has a collection of Bronzes on exhibit at the National Art Gallery. She is a Member of the Aspen Historical Society and is very involved with the preservation of art.

Pascal Regan, is the daughter of the French painter Charles Pascal. At a very early age and due to deafness, she began drawing as a means of communication. After ten years of studying painting in the impressionist style with Marcel Dyt in Paris, she returned to sculpture which she had studied in Italy with Professor Julius Attilio from the age of eleven. At the age of forty-one Pascal began sculpting in glass and today is acknowledged as one of the greatest living American sculptors. She has had exhibitions in Zurich, New York, Tokyo, London, Washington, D.C., Palm Beach and Los Angeles.

Pascal served as Chairman of The Fine Arts for the first inaugural of President Reagan and they are close personal friends.

THE WHITE HOUSE

WASHINGTON

July 31, 1985

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Appointments to the
Commission of Fine Arts

All necessary clearances have been accomplished with regard to the following individuals and they are ready for appointment by the President to the Commission of Fine Arts:

Diane Wolf
Roy Goodman
Carolyn Deaver
J. Carter Brown
Neil Porterfield
Pascal Regan

I would note, however, that the statute requires appointees to be "well-qualified judges of the fine arts." 40 U.S.C. § 104. Several of these prospective appointees, in particular Mesdames Wolf and Regan, are not widely recognized as experts in this field, and may be subject to criticism as unqualified for the important work of this Commission.

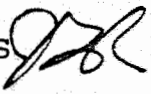
CC: Nancy Perot
Jane Dannenhauer
John Roberts
Susan Borchard

THE WHITE HOUSE

WASHINGTON

September 30, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: David O. Stewart

Attached are David O. Stewart's most recent articles for the ABA Journal. They all report on recent developments in the Supreme Court, and are basically objective and informational. The only bias I have discerned is a tendency to elevate the importance of Justice Powell, his old boss. I have clipped a few brief passages that discuss the Administration.

Also attached is Stewart's Martindale-Hubbel entry.

Attachments

THE WHITE HOUSE
WASHINGTON

September 30, 1985

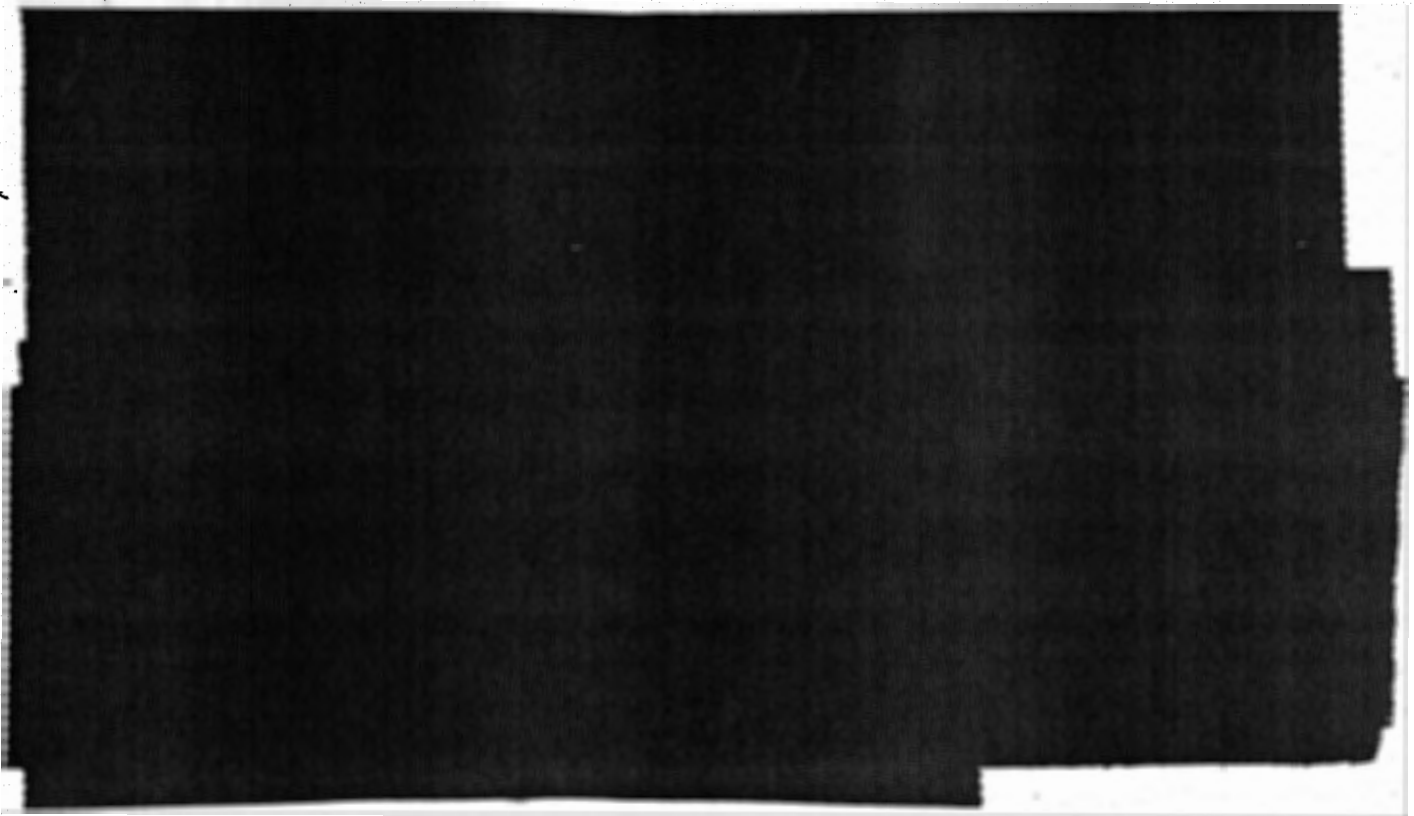
MEMORANDUM FOR JANE DANNENHAUER

FROM: CATHERINE BEDELL *CB*
SUBJECT: PA and PAS Candidate Withdrawals

For your permanent records, please be advised that the following individuals have been withdrawn from consideration as Presidential Appointments:

PAS CANDIDATES:

FOIA(b)(6)



PA CANDIDATES

B6

** They were never put into clearance from this office, but you may have received papers of some sort from them.

cc.: Holland, Tussing, Bullock.