Collection: Roberts, John G.: Files
Folder Title: Chron File (01/17/1983-01/31/1983)
Box: 59

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name		***Withdrawer***
		IGP 8/2/2005
File Folder	CHRON FILE (01/17/1983 - 01/31/1983)	***FOIA***
		F05-139/01
Box Number		COOK
		IGP1

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	FORM	RE APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD	1	1/21/1983	B6	1288
2	MEMO	JOHN ROBERTS TO RICHARD HAUSER RE KENNETH L. ADELMAN (PARTIAL)	1	1/31/1983	B6	423

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

January 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Draft Proclamation Designating March, 1983 as "Red Cross Month"

Dodie Livingston has requested comments by close of business January 18 on the above-referenced draft proclamation. The proclamation, consistent with the 1982 version, refers to the President as "Honorary Chairman of the American National Red Cross." I see no legal objections.

Attachment

THE WHITE HOUSE

WASHINGTON

January 17, 1983

MEMORANDUM FOR DODIE LIVINGSTON

FROM: FRED F. FIELDING

SUBJECT: Draft Proclamation Designating March, 1983 as "Red Cross Month"

Counsel's Office finds no legal objection to the above-referenced draft proclamation.

FFF:JGR:aw 1/17/83

cc: FFFielding
JGRoberts
Subj.
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Draft "Status of the States" 1982 Year End Report

Richard Darman, at the behest of Elizabeth Dole, has requested comments by close of business January 18 on proposed distribution of a report on the progress of the Fifty States Project. The report consists of a three-page preface, an inventory of efforts at the state level to address perceived problems of gender discrimination, a table indicating the political control of the various state assemblies, a table summarizing state activity in this area, and a list of gender-based terminology. Dole proposes to mail the report, with cover letters (drafts attached), to governors, governors' representatives to the Fifty States Project, state legislative leaders, and chairmen of state women's commissions. The letters would be signed by Dole, except for letters to newly-elected governors, which would be signed by the President. A fact sheet (draft attached) would also be released.

The material in the state-by-state inventory was supplied by the governors' representatives from each state. While there can be no objection simply to reporting what the individual states have reported to the Fifty States Project, many of the reported proposals and efforts are themselves highly objectionable. The California section of the report, for example, points to passage of a law requiring the order of layoffs to reflect affirmative action programs and not merely seniority (contrast our position in the Boston layoff case), and a staggeringly pernicious law codifying the anti-capitalist notion of "comparable worth" (as opposed to market value) pay scales. To cite another example, the Florida section cites a (presumably unconstitutional) proposal to charge women less tuition at state schools, because they have less earning potential. The passage or proposal of state ERA's is also often cited. I think it is imperative that the report make clear (as it presently does not) that the inventory is just that, an inventory, and that proposals appearing in it are not necessarily supported by the Administration.

I see no other legal objections. The draft letter from Dole to the governors contains an error: The last sentence of the first paragraph states that "[a]ll information in the report was provided by your representative or designee," when it should state that "all information in the report was provided by the various governors' representatives or designees" -- one state's representative did not provide <u>all</u> the information in the report.

I have attached a proposed memorandum to Darman for your signature.

Attachment

THE WHITE HOUSE

WASHINGTON

January 18, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft "Status of the States"
1982 Year End Report

Counsel's Office has reviewed the above-referenced draft report and accompanying materials. Several of the items in the state-by-state inventory of actions taken to redress perceived gender discrimination are highly controversial, questionable as matters of legal policy, and not widely accepted as appropriate responses to problems of gender discrimination. Examples include efforts to legislate theories of "comparable worth," state ERA proposals, proposals concerning abortion, and alterations in seniority rules governing layoffs to accommodate past affirmative action hiring. Accordingly, I consider it important that the Report explicitly state that the items in the inventory do not necessarily have the endorsement of the Administration. It is insufficient simply to acknowledge that the Report is the product of information received from governors' representatives.

I suggest adding the following sentence at the end of the fourth paragraph on the first page of the preface to the Report: "The report is an objective survey of activity at the state level, and the White House does not necessarily support all of the proposals appearing in the report."

The last sentence of the first paragraph in the draft letter to governors erroneously states that the addressee's representative provided all the information in the report. I suggest the following: "All information in the report was provided by the various governors' representatives or designees . . . ."

Typographical errors were noticed on page 2 of the preface ("discrminatory") and in the Alabama ("inteRstate"), California ("effectED"), and New Mexico ("cerificate") sections.

FFF:JGR:aw 1/18/83
cc: FFFielding/JGRoberts/Subj./Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Draft Proclamation Designating the Week Beginning April 24, 1983, as "National Consumers' Week"

Richard Darman has requested comments by close of business January 14 on the above-referenced draft proclamation. As noted in the memorandum from Michael J. Horowitz to the President, such a proclamation is neither traditional nor has it been requested by Congress. If we are trying to cut down on the number of proclamations, it would seem desirable to start with non-traditional, non-requested ones. Proclaiming a "National Consumers' Week" in the midst of a recession also seems somewhat discordant. On the other hand, a similar proclamation was issued last year, and Elizabeth Dole urges issuance of this one.

The proclamation itself is objectionable in that it refers to a "Consumer's Bill of Rights" considered to encompass a wide range of things that are obviously desirable from a consumer's point of view but not necessarily on the level of legal rights -- such as the right "to a wide assortment of competitively priced goods and services produced here and abroad." If the proclamation goes forward I suggest deleting the first sentence of the third paragraph and the first three words of the second sentence and substituting "Consumers should have . . ."

I have prepared a draft memorandum to Darman for your signature objecting to the "rights" language and noting that we are less than enthusiastic about reissuing this proclamation.

Attachment

THE WHITE HOUSE

WASHINGTON

January 17, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Proclamation Designating the Week Beginning April 24, 1983, as "National Consumers' Week"

Counsel's Office has reviewed the above-referenced draft proclamation. We find the references to a "Consumer's Bill of Rights" in the third paragraph objectionable, because that language could be misconstrued as Presidential endorsement of broad legal rights of questionable validity. I suggest deleting the first sentence of the third paragraph, and the first three words of the second sentence, and substituting "Consumers should have . . ."

Since this proclamation is neither traditional nor has it been requested by Congress, it may be appropriate to dispense with it altogether in the interest of generally limiting the number of Presidential proclamations.

FFF:JGR:aw 1/17/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

January 18, 1983

Dear Ms. Kopchik:

As we discussed, I will not be submitting a 278 report because of the termination of my employment as a Special Assistant to the Attorney General, since I was required to submit a 278 report upon acceptance of my new position as Associate Counsel to the President.

Thank you for your assistance.

Sincerely,

John G. Roberts
Associate Counsel
to the President

Ms. Sandra M. Kopchik
Assistant Director
Personnel Service
Personnel Staff
Justice Management Division
U.S. Department of Justice
Washington, D.C. 20530

THE WHITE HOUSE

WASHINGTON

January 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Customs Declaration Package

Ed Stuckey, Executive Assistant to the Commissioner of Customs, contacted the private firm involved with the customs declaration advertising pamphlet in response to your memorandum of January 10, 1983 (Tab A). He advised me that the firm was willing to put any necessary disclaimers on subsequent printings of the pamphlet, to clarify that the Presidential message was reprinted from documents in the public domain and was not to be construed as an endorsement of the advertisers. The firm has already printed over 2.5 million pamphlets, however, (about one month's supply), and was reluctant to have to pull those back. The firm was also reluctant to dispense with the Presidential message from future printings, preferring to use disclaimers. Stuckey reported that both the firm and the Customs Service thought they had obtained all necessary White House clearance when the White House Correspondence Unit provided the message in question in response to a Customs Service memorandum seeking approval of the plan (Tab B).

I have obtained one of the pamphlets (Tab C), and it looks much worse than described to me. In a particularly unfortunate juxtaposition, the front says "Welcome to the United States" and contains the Presidential message, over a prominent facsimile signature, while the back says "Come to Marlboro Country."

With the message (and facsimile signature) so prominently displayed, I do not think disclaimers will suffice to correct misperceptions of Presidential endorsement. I believe the Customs Service should advise the firm that the Presidential message must be deleted from its pamphlet. The difficult question is what to do with the 2.5 million pamphlets awaiting distribution. The private firm, which has considerable sums sunk not only in the printing of the pamphlets but also advertising contracts, can make a fairly strong case that it justifiably relied upon the assurances of the Customs Service that it could reprint the message.

I recommend permitting the firm to distribute existing pamphlets, on the condition that it discontinue use of the Presidential message in future printings. I think we should also try to have the firm stamp "Not an Official Government Document" on the front of the existing pamphlets, although I do not know how feasible this would be. Finally, I recommend advising Customs that the White House Correspondence Unit concerns itself only with the content of messages and not the legal propriety of their use.

I have prepared a proposed memorandum embodying the foregoing recommendations. Printing of the next batch of the pamphlets is due to commence this week, so prompt action is required.

Attachments:

TAB A - FFF Memorandum to Chief Counsel, Customs Service (January 10, 1983)

TAB B - Customs Service Memorandum to White House Correspondence Unit

TAB C - Customs Declaration Pamphlet

THE WHITE HOUSE

WASHINGTON

January 19, 1983

MEMORANDUM FOR RICHARD H. ABBEY
CHIEF COUNSEL
U.S. CUSTOMS SERVICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Customs Declaration Package

I have now received a copy of the customs declaration advertising pamphlet. The Presidential message and facsimile signature as well as the Treasury Seal are so prominently featured on the pamphlet that I do not believe any disclaimers will suffice to correct the strong suggestion that the President has endorsed the pamphlet and the advertisers featured in it. Accordingly, the Presidential message and signature must be removed from any future printings of the pamphlet; I would also suggest removal of the Seal.

I have also been provided with a copy of the memorandum from the Customs Service to the White House Correspondence Unit, seeking approval of a Presidential message for "Operation First Impression." It is my understanding that the Correspondence Unit provided the message used in the pamphlet in response to this request. Please be advised that the Correspondence Unit concerns itself with the content and form of Presidential messages, and not the legal propriety of their use in various contexts. In any event, the memorandum to the Correspondence Unit did not sufficiently describe the contemplated use of the message in a wholly private pamphlet containing private advertising, and the response of the Correspondence Unit cannot be considered any sort of "White House approval" of the pamphlet as it now exists.

Since it appears that the private firm relied upon governmental assurances from Customs that it could reprint the Presidential message and otherwise print the pamphlet, you will have to gauge how to deal with this. Since this could result in criticism, you may want to consult with Peter Wallison as well before deciding if action needs to be taken to halt distribution of the pamphlets already printed. To require the firm to stamp "Not an Official Government Document" on the front of the existing pamphlets prior to distribution would cause recipients to be confused as to the use of the forms. However, some disclaimer must be used if the pamphlet is to be utilized: Please keep me advised of your decisions.

cc: Peter J. Wallison
General Counsel
Department of the Treasury

William von Raab
Commissioner of Customs

Edward Stuckey
Executive Assistant to the
Commissioner of Customs

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 19, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Correspondence from John Ford Evans, Jr. of O'Connor & Hannan

Mr. Evans wrote you on January 4 inquiring if O'Connor & Hannan could take over the collection of unpaid student loans to government employees from the metropolitan area. Inquiries at the Department of Justice confirmed my belief that the Department does not contract out its litigation responsibilities to private firms in this area or -- with limited exceptions -- in any other area. Agencies often resort to private collection agencies before referring debt matters to Justice, but once litigation is required the matter is handled exclusively by Justice. I have prepared a response to Evans with this information, also noting that Paul McGrath is responsible for litigation in this area should Evans nonetheless want to pursue the matter further.

Attachment

THE WHITE HOUSE

WASHINGTON

January 19, 1983

Dear John:

Thank you for your letter of January 4, 1983, inquiring about the possibility of O'Connor & Hannan taking over the collection of unpaid student loans to government employees. I am advised that the Department of Justice does not contract out its litigation responsibilities in this area. Some federal agencies employ collection agencies in an effort to secure payment of debts prior to resort to litigation, but once litigation is required the matter is handled exclusively by the government's attorneys.

If you are still interested in pursuing the matter further, the best person to contact would be J. Paul McGrath, Assistant Attorney General, Civil Division. Mr. McGrath's division has overall responsibility for the government's debt collection efforts.

Sincerely,

Fred F. Fielding
Counsel to the President

John Ford Evans, Jr., Esq.
O'Connor & Hannan
Suite 800
1919 Pennsylvania Avenue, NW
Washington, D.C. 20006-3483

FFF:JGR:aw 1/19/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

January 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Draft Indian Policy Statement

Richard Darman has requested comments by close of business January 19, on the above-referenced draft policy statement. A summary of this policy statement was released on January 14. The policy statement announces the Administration's commitment to dealing with Indians on a government-to-government basis. It calls for making tribes eligible for Title XX block grants, amendment of the law establishing the Advisory Commission on Intergovernmental Relations to include a representative of tribal governments (42 U.S.C. § 4273), and renunciation by Congress of House Concurrent Resolution 108, 83rd Congress. H. Con. Res. 108, in my view, reads like motherhood and apple pie:

> "It is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, and to end their status as wards of the United States, and to grant them all the rights and prerogatives pertaining to American citizenship."

I am advised by Robert Carleson, Special Assistant to the President in the Office of Policy Development, however, that Indians oppose the notions of "equality" embodied in H. Con. Res. 108 as departures from their "special" status, and that renunciation of H. Con. Res. 108 (itself having no legal effect) has great symbolic value. The decision to urge renunciation of H. Con. Res. 108 was made at a Cabinet Council meeting last fall, and has already been announced in the January 14 summary, so it appears in any event to be water under the bridge.

The policy statement also refers to the newly-established advisory commission on Indian reservation economies. On page 10, last sentence, the commission is described as "charged with the responsibility for exclusively advising the President" on Indian reservation economies. I would object to any effort to characterize any source of advice to the President -- particularly an advisory committee -- as the exclusive source of advice. The President is entitled to solicit advice from whomever he chooses. I would simply delete the unnecessary word "exclusively."

Attachment

THE WHITE HOUSE

WASHINGTON

January 18, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Indian Policy Statement

Counsel's Office has reviewed the above-referenced draft policy statement. The description of the responsibilities of the Advisory Commission on Indian Reservation Economies on page 10 is objectionable in that the commission is described as "charged with the responsibility for exclusively advising the President" on reservation economies. (Emphasis supplied). The Executive Order establishing the commission contains no language suggesting that the commission is to be the exclusive source of advice on the topics within its purview. The President is of course entitled to advice from whatever sources he desires, and we should avoid limiting his flexibility in this regard. I recommend deletion of the word "exclusively."

FFF:JGR:aw 1/18/83

cc: FFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

January 20, 1983

Dear Mr. Boone:

With regard to your prospective appointment to the National Institute of Building Sciences, it will be necessary for you to complete the enclosed Financial Disclosure Statement. Please return this form to me at your earliest convenience.

With best wishes,

Sincerely,

John G. Roberts
Associate Counsel
to the President

Mr. Kyle Clayton Boone
Boone:Hunton Associates
P.O. Box 577
Weaverville, North Carolina 28787

Enclosure

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 20, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Sign Language Interpreter for Reagan Executive Forum

Becky Norton Dunlop and her aide John Hilboldt approached me at 5:00 p.m. yesterday, to inquire if a sign language interpreter for deaf persons must be provided at the Reagan Executive Forum at 1:00 p.m. today. One of the invitees to the Forum, a Reagan-appointed member of the Council on the Handicapped, is deaf, and requested an interpreter who would consistently mouth the presentations. Dunlop has no problem providing one (who would sit with the individual and not on stage), and the individual is reportedly content with such an arrangement. In the course of securing an interpreter for this purpose, however, Dunlop was advised by the Department of Education (source of interpreter) that an on-stage "signer" was required for the Forum, since it was a public meeting.

I talked with both Brad Reynolds and his Special Counsel for discrimination against the handicapped, Mark Disler. Both advised that they were aware of no legal requirement that there be a signer at the Forum. Disler recommended against providing one, for the precedent it would set; Reynolds said it was entirely up to the White House.

Since the rumored legal requirement originated with Education, I also checked with Dan Oliver (not the source of the rumor), who advised that an interpreter should be provided for deaf employees under 29 U.S.C. § 791, but that the interpreter need not be on stage. He suggested signs (or, oddly, an announcement) advising the deaf that an interpreter was available at a given area. I asked Oliver if anything need be done beyond responding to requests from deaf employees, and he said no. Since the only inquiry in this regard has come from the Council on the Handicapped member, and his request has been met, I do not see any need for any further action, and have so advised Dunlop. Incidentally, I do not agree with Oliver's reading of 29 U.S.C. § 791 to require interpreters for the deaf. That section establishes an Interagency Committee "to insure that the special needs of [handicapped employees] are being met." It does not itself impose any legal requirements for federal programs.

THE WHITE HOUSE

WASHINGTON

January 19, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Speaking Engagement in France for Morton Blackwell

Morton Blackwell has inquired whether he may accept an invitation to speak to a conference of French student leaders in Paris, and accept reimbursement for travel and lodging. Mouvement des Jeunes Pour la Liberte de L'Enseignment (MJLE), a student group dedicated to non-public schools, is holding a seminar for its leaders to study American methods of organization and leadership. The group describes itself as non-partisan, and Blackwell has been told it is the French equivalent of a 501(c)(3) organization. Blackwell would not receive an honorarium.

If Blackwell's activities in connection with his appearance in Paris are part of his official duties, acceptance of reimbursement would constitute an unauthorized supplementation of appropriations. If Blackwell's activities are unofficial, he could accept reimbursement, provided (as seems likely) MJLE does no business with Blackwell's office and has no other interests that may be affected by performance or non-performance of Blackwell's official duties. 3 C.F.R. 100.735.

My impression is that MJLE is a French equivalent of the sort of group Blackwell is responsible for liaison with here in the United States, particularly with regard to issues such as tuition tax credits. I talked with Blackwell briefly as to whether the trip would be in connection with his official duties or would be personal, and he was unable to say. I think the visit is at least sufficiently related to Blackwell's official duties to raise a doubt concerning the appropriateness of acceptance of reimbursement, and, as pointed out in your memorandum of August 24, 1981, to the White House Staff, "<u>any</u> doubt as to the appropriateness of accepting travel expenses or reimbursement . . . <u>must be resolved in favor of not accepting</u>." (Emphasis in original.)

Of course, if MJLE were a domestic group, Blackwell could accept reimbursement under 5 U.S.C. § 4111, which permits acceptance of travel and subsistence expenses from 501(c)(3) organizations. There is, however, no analogous statutory provision for foreign charitable groups.

I recommend advising Blackwell (1) that he may not accept reimbursement, because the invitation is too closely related to his official duties, and (2) that he not accept the invitation as official travel, paid for out of appropriated funds, because of appearance problems. In essence, the trip is too official to permit reimbursement, but not official enough to permit government payment without appearance problems. This is exactly the sort of "Catch 22" situation 5 U.S.C. § 4111 was designed to avoid, but, as noted, that statute is of no help here.

I am not entirely comfortable with this conclusion, because of the 5 U.S.C. § 4111 analogy, and because I think it would create less of an appearance problem if MJLE paid for the trip than if the government did. I do not, however, see any other conclusion, unless it be the somewhat artificial one that Blackwell only has domestic liaison duties, and foreign visits are *ipso facto* personal.

Attachment

THE WHITE HOUSE

WASHINGTON

January 19, 1983

MEMORANDUM FOR MORTON C. BLACKWELL
SPECIAL ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Invitation to Appear Before Mouvement des Jeunes Pour la Liberte de l'Enseignment

You have inquired whether it would be appropriate for you to accept the invitation of the Mouvement des Jeunes Pour la Liberte de l'Enseignment (MJLE) to appear before a group of student leaders in Paris, and whether it would be appropriate to accept reimbursement for expenses from MJLE. Since MJLE appears to be the French equivalent of the sort of domestic organization within the purview of your official liaison duties, the contemplated trip must be considered official travel. You may not accept reimbursement of expenses for official travel, since doing so would constitute an unauthorized supplementation of appropriations.

It is often difficult to draw the line between official and personal travel, but, as noted in my August 24, 1981 memorandum to the White House Staff on acceptance of transportation and travel-related expenses, "*any* doubt as to the appropriateness of accepting travel expenses or reimbursement . . . *must be resolved in favor of not accepting*." (Emphasis in original). While there is an exception to the general rule for reimbursement from 501(c)(3) organizations, 5 U.S.C. § 4111, the exception does not apply to foreign organizations, no matter how similar they may be to domestic 501(c)(3) organizations.

If the trip is undertaken as official travel, it must be paid for out of appropriated funds. Although the trip must be considered official for purposes of determining if reimbursement is appropriate, I think you will agree that a serious appearance problem would be raised by official travel to Paris to appear before MJLE.

In light of the foregoing, I must advise against acceptance of the invitation.

Thank you for bringing this matter to our attention.

FFF:JGR:aw 1/19/83
cc: FFFielding/JGRoberts/Subj./Chron

THE WHITE HOUSE

WASHINGTON

January 21, 1983

APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD

DATE OF INTERVIEW: January 21, 1983 (by telephone)
CANDIDATE: Peter H. Raven
POSITION: Member, National Museum Services Board
INTERVIEWER: John G. Roberts JGR

Comments

Dr. Raven is the Director of the Missouri Botanical Garden and has served for the past five years as a member of the National Museum Services Board, the board to which he is being renominated for a second term. Dr. Raven's nomination is consistent with the statutory requirement that members of the board "be broadly representative of various museums, including museums relating to . . . botanical gardens . . . ." 20 U.S.C. § 963(a)(1). Reappointments are specifically permitted so long as the individual has not served more than seven consecutive years, *id.* § 963(b); Dr. Raven has not.

Dr. Raven belongs to numerous scientific organizations and committees. While Dr. Raven thought that some of those organizations might benefit from Institute of Museum Services funding, he noted that specific funding decisions were made by the Director, not the Board, and that he would continue his practice of recusing himself should a specific item involving one of his other organizations come before the Board. I impressed upon him the necessity of doing so, and also urged him to contact us if he had any questions in this regard during the course of his term. Nothing in Dr. Raven's financial picture appears to present any problems.

Dr. Raven stated that nothing in his prior service on the Board or in his previous congressional testimony was at all controversial. He also stated that he knew of nothing in his past that could be a possible source of embarrassment to the President. Dr. Raven reported that he knows and is on good terms with both of his state's senators.

Dr. Raven was not required to complete a financial disclosure report (SF 278).

THE WHITE HOUSE

WASHINGTON

January 21, 1983

APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD

DATE OF INTERVIEW: January 21, 1983 (by telephone)
CANDIDATE: R. Budd Gould
POSITION: Member, National Council on the Handicapped
INTERVIEWER: John G. Roberts JGR

Comments

Mr. Gould, who has been blind since April 13, 1970, has extensive experience as a state legislator and has served on numerous boards and advisory committees concerned with the needs of the handicapped. He thus satisfies the requirement that appointees to the National Council on the Handicapped "be representative of handicapped individuals [or] national organizations concerned with the handicapped . . ." 29 U.S.C. § 780(a). [redacted] b6

While Mr. Gould has been active in handicapped affairs for several years, he did not consider any of his previous statements or positions as likely to generate controversy. I reviewed several of those positions with Mr. Gould -- such as his belief that alcoholism and drug abuse should not be classed with blindness, deafness, etc. as handicaps -- and consider them well within the mainstream of debate in this area.

Mr. Gould was not required to complete a financial disclosure report (SF 278).

THE WHITE HOUSE

WASHINGTON

January 21, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Testimony of Assistant Attorney General Rose on Bankruptcy Reform

The Department of Justice has submitted a proposed statement by Jon Rose on bankruptcy reform, to be delivered before the Senate Subcommittee on Courts on January 24. The testimony reviews problems which have arisen under the Emergency Rule system put in place upon expiration of the stay of the Northern Pipeline decision, and reiterates the Department's preference for an Article III solution to the bankruptcy crisis. In particular the testimony supports the second Judicial Conference proposal, which calls for bankruptcy administrators in each district to handle routine matters and to refer live disputes to district judges. One hundred and fifteen new district judgeships would be created to accommodate the increase in workload.

The testimony also discusses the two previous leading proposals, H.R. 7294, which would create a bankruptcy division (with 227 new judges) as part of the existing district courts, and H.R. 6978, which would create independent specialized Article III bankruptcy courts. The testimony states a strong preference among these alternatives for H.R. 7294, because it would maintain the historic unified Article III judiciary, permit bankruptcy division judges to handle other Article III fare when not occupied with bankruptcy matters, and attract abler candidates. The testimony concludes by opposing two modifications in H.R. 6978 in the newly-introduced H.R. 3. The first would restrict bankruptcy judges to bankruptcy matters, clearly marking them as second-class Article III judges. The second would stagger the appointment of the new judges over two and one-half years. As the testimony notes, the reason for this bloated transition period is wholly political, and will extend constitutional uncertainty in this area for an intolerable period.

I see no objections to the testimony. The approach supported -- 115 new bankruptcy judges, who could exercise other Article III jurisdiction -- is preferable from the Administration's standpoint to any staggered system or proposal to isolate bankruptcy judges from broader responsibilities, yet is also more moderate than the original 227 new judges proposal. I also agree that the political basis for the staggered appointments proposal should be exposed. The bankruptcy system is in constitutional disarray, and if our opponents want to play politics with it that should be made clear to everyone concerned.

I have prepared a memorandum for internal use explaining the shift from supporting a proposal for 227 judges to one for 115.

Attachment

BANKRUPTCY REFORM PROPOSAL

The Supreme Court's decision last term in Northern Pipeline Construction Co. v. Marathon Pipe Line Co., 102 S. Ct. 2858 (1982), invalidated the broad grant of jurisdiction to the Article I courts established by the Bankruptcy Reform Act of 1978. Congress has yet to pass corrective legislation, and the last stay of the decision expired on December 24, 1982. Since that time the district courts have been handling bankruptcy matters on an uncertain and unsatisfactory Emergency Rule basis.

During the last session of Congress, the Administration supported a proposal to create 227 new Article III judgeships to handle bankruptcy matters and, time permitting, other typical district court cases. This proposal was opposed by the Chief Justice, and Democratic legislators insisted on strictly limiting the new judges to bankruptcy matters. The Chief Justice (under the guise of the Judicial Conference) has now proposed the creation of 115 new Article III judgeships, and the establishment of a "bankruptcy administrator" in each judicial district. The administrator would handle routine matters and refer disputes to the new district judges for handling. When not occupied with bankruptcy matters the new judges could hear other cases.

This proposal is strongly supported by Senator Thurmond, and the Department of Justice proposes to support it in testimony to be delivered by Assistant Attorney General Jon Rose on January 24. While this new proposal appears to reduce by one-half the number of new appointments to be made by the President, the 115 appointments would be of district judges who could handle non-bankruptcy matters. The 227 appointees under the old proposal would doubtless be limited to bankruptcy matters (as specified in Rodino's new H.R. 3). The new proposal is also more realistic, as it has the support of the Chief Justice and Senator Thurmond.

THE WHITE HOUSE

WASHINGTON

January 20, 1983

MEMORANDUM FOR EDWARD V. HICKEY, JR.
ASSISTANT TO THE PRESIDENT

FROM: JOHN G. ROBERTS JGR
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Request for a Television and Radio

I would appreciate, if possible, obtaining a television and a radio for my office. I am located in Room 112/OEOB.

Thank you.

THE WHITE HOUSE

WASHINGTON

January 24, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: FCC Syndication and Financial Interest Rule

Richard Darman has requested comments by close of business today on a proposed letter from Chris DeMuth to FCC Chairman Mark Fowler, supporting repeal of the Syndication and Financial Interest Regulation. This rule prohibits the three television networks from financing production of television programs or otherwise becoming involved in program syndication. DeMuth notes in his cover memorandum that the case for repeal of the rule is "strong and unambiguous," and that Fowler has made repeal one of his top regulatory reform initiatives. DeMuth argues that failure to support repeal prior to the January 26 deadline for filings would be viewed as a retreat from Administration support for deregulation and -- since opponents of repeal have urged that the Administration take no action before January 26 -- as "tilting" toward retention of the rule in a way that might affect undecided commissioners.

I agree with DeMuth as to the merits of repeal. The argument in favor of the rule is that if CBS enters the business of financing development of programs it will eventually show only CBS-financed programs, to the exclusion of independent producers. This is like arguing that permitting Giant Foods to market its own brand of peanut butter means it will not sell "Jiffy" -- even if "Jiffy" is what its customers want to buy. Networks will show programs that maximize their audience share, whether produced by the network or independently.

DeMuth's proposed letter notes that the rule is irrelevant to the issue of abuse of the networks' position, since such abuse can occur just as easily through direct purchase as through earlier investment involvement by the networks. The letter also discounts any negative effect on unaffiliated television stations from repeal, noting that a Justice Department study suggested such an effect only on the basis of "severe theoretical assumptions." I have checked with Justice and have determined that it is wholly in favor of repeal and would agree with DeMuth's characterization of its study. Finally, the letter discusses the erosion in the networks' dominance due to the rise of cable television and the like.

The proposed repeal is an important deregulation initiative, and I believe the Administration should go on record as supporting it. Deliberately not taking a position because the matter is controversial (the suggestion of some) is a prescription for paralysis -- at least where the logic of the Administration's efforts point so clearly in one direction. I see no legal objection to the substance of the letter or to sending it, and I have prepared a memorandum to Darman to that effect.

Attachment

THE WHITE HOUSE

WASHINGTON

January 24, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: FCC Syndication and Financial Interest Rule

Counsel's Office finds no legal objection to sending the proposed letter from Christopher DeMuth to FCC Chairman Mark Fowler, supporting repeal of the Syndication and Financial Interest Rule.

FFF:JGR:aw 1/24/83

cc: FFFielding
JGRoberts
Subj.
Chron

JGR Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 25, 1983

FOR: FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Enterprise Zone Bill and Message to Congress

Richard Darman has requested comments by close of business today on the proposed Enterprise Zone Bill and message to Congress submitted by Edwin L. Harper and Robert B. Carleson. According to Harper and Carleson, the bill is as passed by the Senate Finance Committee, with minor changes requested by Secretary Pierce. I have reviewed both the message and the bill, and see no legal objections. The issues presented by the bill are generally not legal issues but issues of economic policy.

The last sentence of the section "The Elements of Enterprise Zones" on page 2 of the message is not a complete sentence; the word "governments" in the last sentence of the sixth paragraph on page 5 should be possessive ("governments'").

I have prepared a memorandum to Darman, stating that we have no legal objection and noting these stylistic problems.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 25, 1983

FOR: RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT AND
DEPUTY TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enterprise Zone Bill
and Message to Congress

Counsel's Office has no legal objection to the above-referenced proposed bill and message to Congress. We would note, however, that the last sentence in the section entitled "The Elements of Enterprise Zones" on page 2 is not a complete sentence, and that the word "governments" in the last sentence of paragraph 6 on page 5 should be possessive ("governments'").

JGR Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 25, 1983

FOR: FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Nomination of Lt. General Paul W. Myers

Secretary Weinberger and Edward V. Hickey, Jr., have recommended that the President nominate Lieutenant General Paul W. Myers, Surgeon General of the U.S. Air Force, for appointment to the grade of Lieutenant General on the retired list. The President is authorized in his discretion to do so by 10 U.S.C. §1370(c). I see no legal objection to the proposed action, and have prepared a memorandum to Darman to that effect.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 25, 1983

FOR: RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT AND
DEPUTY TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Nomination of Lt. General Paul W. Myers

Counsel's office has no legal objection to the proposed nomination of Lieutenant General Paul W. Myers for appointment to the grade of Lieutenant General on the retired list pursuant to 10 U.S.C. § 1370.

THE WHITE HOUSE

WASHINGTON

January 26, 1983

Dear Mr. Enns:

With regard to your prospective appointment to the Federal Farm Credit Board, it will be necessary for you to complete the enclosed Personal Data Statement and Financial Disclosure Report. Please return these forms to me at your earliest convenience.

With best wishes,

Sincerely,

John G. Roberts

John G. Roberts
Associate Counsel
to the President

Mr. Paul I. Enns
204 Starmount Lane
Bakersfield, California 93309

Enclosures

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 27, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Nomination of Moody Tidwell to be Deputy Comptroller General

Attached is the September 14, 1982 memorandum you wrote to Helene von Damm, advising her that the President must consider, but is not bound by, the recommendations of the Congressional Commission established by 31 U.S.C. § 42 to advise the President on appointments to the posts of Comptroller General and Deputy Comptroller General. Chris Hicks advised me that repeated efforts to obtain a list of names from the Commission have been fruitless; the Commission has not even met. He indicated it was the intent of Presidential Personnel to send Tidwell's name up without further delay. Nancy Kennedy, however, informed Sherrie Cooksey that the Commission would meet today and submit a list -- with Tidwell's name on it -- by the first of next week. I see no reason for inviting a controversy over the 31 U.S.C. § 42 procedure when it can be avoiding by waiting a few days. I recommend advising Presidential Personnel that Legislative Affairs advises us that a list will soon be forthcoming, and that Tidwell will be on it. I have prepared a proposed memorandum for your signature to Helene von Damm.

Attachment

THE WHITE HOUSE

WASHINGTON

January 27, 1983

MEMORANDUM FOR HELENE VON DAMM
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Nomination of Moody Tidwell to be Deputy Comptroller General

In my September 14, 1982 memorandum to you on the appointment of the deputy comptroller general, I advised that the President must consider, but is not bound by, the recommendations of the commission established by 31 U.S.C. § 42 to advise him on appointments to the posts of comptroller general and deputy comptroller general. We have been advised by the Office of Legislative Affairs that the commission is meeting today and will, by the first of next week, submit a list of suggestions for the position of deputy comptroller. I therefore recommend awaiting the imminent receipt of this list before submitting a nomination to the Senate.

FFF:JGR:aw 1/27/83

cc: FFFielding
JGRoberts
Subj.
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 27, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Memo to Departments and Agencies
Re: Red Cross Month, 1983

Richard Darman has requested comments by close of business January 28 on a draft memorandum from the President to the heads of executive departments and agencies, urging support for the Red Cross during Red Cross Month. The President proclaimed March as Red Cross month in a recent proclamation. A very similar memorandum was circulated last year, and I see no legal objection to this year's memorandum. Consistent with the proclamation and last year's memorandum, the proposed draft refers to the President as the Honorary Chairman of the American Red Cross.

The third sentence of the draft suffers from a stylistic flaw of sufficient magnitude to warrant comment. The sentence lists four things for which we depend upon the Red Cross, and one time -- resulting in a disconcerting lack of parallelism. I suggest adding "for help" before "in times of disaster," to restore parallelism in the sentence structure.

Attachment

THE WHITE HOUSE

WASHINGTON

January 27, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Memo to Departments and Agencies
Re: Red Cross Month, 1983

Counsel's Office has reviewed the above-referenced proposed memorandum from the President, and has no legal objection to it. The third sentence, however, suffers from a lack of parallelism, which could be readily cured by inserting the words "for help" before "in times of disaster."

FFF:JGR:aw 1/27/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

January 27, 1983

APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD

DATE OF INTERVIEW: January 25 & 26, 1983
CANDIDATE: Moody Tidwell
POSITION: Deputy Comptroller General
INTERVIEWER: John G. Roberts

Comments

Moody Tidwell, currently Deputy Solicitor at Interior, is the prospective nominee for Deputy Comptroller General. Under 31 U.S.C. § 42, a commission is established to recommend individuals to the President for appointment to the offices of Comptroller General and Deputy Comptroller General. According to a memorandum from Fred F. Fielding to Helene von Damm, the President must consider but need not limit himself to names submitted by the commission. Chris Hicks of Presidential Personnel advised that the commission had not met and was delaying meeting for political reasons, and that Presidential Personnel intended to submit Tidwell's name without any further waiting for a list of names. Nancy Kennedy of Legislative Affairs, however, advised that the commission was meeting today and that Tidwell's name would be on their list, to be submitted by the first of next week.

In addition to serving as Deputy Solicitor at the Department of Interior, Mr. Tidwell has for several years been a member of the Board of Directors and Corporate Secretary of KECO Industries, Inc., of Florence, Kentucky. Mr. Tidwell advised me that his service for KECO (3-4 days per year) had been approved by Interior's ethics counsellor. I advised him that he must sever all relations with KECO, and he agreed to do so, effective upon his confirmation.

Mr. Tidwell has also been reimbursed for the expenses of delivering three lectures per year for Federal Publications, Inc. Acceptance of expenses had been approved by the Interior ethics counsellor, Gabriele Paone, and I requested that this fact be memorialized in writing. A memorandum from Paone to Tidwell doing so is attached. I also advised Mr. Tidwell that upon assuming his new duties he should check with GAO ethics officers to see if he may continue the practice of delivering the lectures and accepting reimbursement for expenses consistent with GAO guidelines.

I also asked Tidwell about his petroleum royalties (inherited from his father) and whether they represented a conflict with his Interior duties. He advised me that he had cleared the issue with the Interior designated ethics official, and submitted the letter from that official sanctioning his retention of the royalty interests.

In light of Tidwell's decision to resign from the KECO Industries board of directors, and the memorandum from Paone justifying Tidwell's acceptance of reimbursement for expenses in connection with his lectures, I see no objection to his nomination.

THE WHITE HOUSE

WASHINGTON

January 28, 1983

APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD

DATE OF INTERVIEW: January 27, 28, 1983 (by telephone)
CANDIDATE: Steven R. Schlesinger
POSITION: Director, Bureau of Justice Statistics
INTERVIEWER: John G. Roberts JGR

Comments

Dr. Schlesinger is on leave from his position as Associate Professor and Associate Chairman of the Department of Politics, Catholic University. A form signed by Provost J. Murphy confirms that the leave is without salary, and Dr. Schlesinger confirms that all of his university benefits will be frozen during his leave of absence. Dr. Schlesinger satisfies the statutory requirement that the Director of the Bureau of Justice Statistics (BJS) have experience in statistical programs. 42 U.S.C. § 3732(b).

Dr. Schlesinger's finances present no problem. He is a member of the board of the American Jewish Forum, a non-profit conservative group, but he notes that he receives no pay and that the board has, in fact, never met. He confirms that the Forum has no dealings of any kind with BJS. Dr. Schlesinger has written numerous articles, generally advocating conservative positions in criminal justice matters. He knows of nothing in his record that might be a source of embarrassment to the President.

Dr. Schlesinger has testified before one of his Senators, Senator Mathias, and while the Senator did not agree with his views, Dr. Schlesinger did not perceive him to be hostile. Dr. Schlesinger reports amicable relations with the staff of his other Senator, Senator Sarbanes.

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name	*Withdrawer*
Roberts, John	IGP 8/2/2005
File Folder	*FOIA*
CHRON FILE (01/17/1983 - 01/31/1983)	F05-139/01 COOK
Box Number	IGP1

DOC NO	*Document Type / Document Description*	*No of pages*	*Doc Date*	*Restrictions*	
2	MEMO JOHN ROBERTS TO RICHARD HAUSER RE KENNETH L. ADELMAN	1	1/31/1983	B6	423

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.

Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 31, 1983

FOR: FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Fair Housing

Stan Morris has transmitted the attached fact sheet on fair housing in response to a request from Richard Hauser. The fact sheet notes that since the Administration took office, the Department of Justice has:

-- undertaken 130 housing discrimination investigations;

-- obtained 8 criminal indictments;

-- filed 3 "pattern and practice" suits (against the town of Cicero, Illinois and apartment complex owners in Boston and Detroit);

-- argued (and won) a major housing discrimination case in the Supreme Court (Havens Realty).

It also indicates that several consent decrees have been negotiated and that over a dozen potential lawsuits may reach the litigation stage within the next six months. With respect to legislative activity, the fact sheet simply notes that the revision of the Fair Housing Act will be before Congress this session, and that Justice is working with HUD to review various proposals.

I think it is important, as the storm clouds gather over the issue of housing discrimination legislation, to recall what Mark Twain said of the cat who sat on a hot stove lid. The cat will never sit on a hot stove lid again, but it will also never sit on a cold one. The fact that we were burned last year because we did not sail in with new voting rights legislation does not mean we will be hurt this year if we go slowly on housing legislation. Government intrusion (though, e.g., an "effects test") quite literally hits much closer to home in this area than in any other civil rights area. The Administration should have its positions in order - and even some proposed reforms ready - but I do not think there is a need to concede all or many of the controversial points (effects test, national administrative remedy) to preclude political damage.

Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 31, 1983

FOR: FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Draft Bill on Establishment of Offshore Boundaries

Robert McConnell has provided copies of the proposed "Seabed Boundary Act," a proposed transmittal letter from him to Speaker O'Neill, and a letter from him to David Stockman seeking OMB clearance of both items. The bill, which received Administration clearance in the last Congress, authorizes the Attorney General, with the concurrence of other pertinent Cabinet Officers, to agree with state officials on the boundary between seabed (federal jurisdiction) and subsoil (state jurisdiction). No such authority presently exists, so the boundary must be determined by complex litigation, even if there is no real dispute. The bill also provides several means of making a legal boundary permanent, to increase certainty, even when the geologic line is ambulatory. Only two minor and non-controversial changes from the previously approved bill have been made. I see no legal objections and no need for any action on your part.