

Ronald Reagan Presidential Library Digital Library Collections

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

Collection: Roberts, John G.: Files
Folder Title: Chron File (12/20/1983-12/31/1983)
Box: 62

To see more digitized collections visit:

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

To see all Ronald Reagan Presidential Library inventories visit:

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

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

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

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

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decision in
AFC International Co.

Richard Darman's office has asked for comments by December 20 on the above-referenced CAB decision, which was submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in this case, by January 16, 1984).

The order here has been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since this order involves a foreign carrier, the proposed letter from the President to the CAB Chairman prepared by OMB omits the standard sentence designed to preserve availability of judicial review.

This order denies the request of AFC, a Romanian-owned carrier, to operate as a freight forwarder in the United States. Romania currently denies this right to American carriers in Romania. My review of the materials confirms OMB's description of this as "a routine, noncontroversial matter."

A memorandum for Darman is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision in
AFC International Co.

Our office has reviewed the above-referenced CAB decision and related materials, and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove this order or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aea 12/20/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Proclamation Entitled
"Imports of Petroleum and Petroleum
Products"

Richard Darman has asked for comments on the above-referenced draft proclamation and accompanying fact sheet by close of business December 21. The proclamation was submitted by the Department of Energy and has been approved by OMB and, as to form and legality, by the Office of Legal Counsel. The proclamation will revoke Proclamation 3279, which established a licensing system for imported oil pursuant to the authority to adjust imports in the interests of national security conferred by 19 U.S.C. § 1862(b). That subsection provides, in part:

If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall so advise the President and the President shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

According to the Secretary of Energy, the unlicensed import of oil no longer poses a threat to our national security. The Secretary has recommended, however, that the ban on importation of Libyan crude oil, added to Proclamation 3279 by Proclamation 4907, be continued on national security grounds.

The proposed proclamation begins by reciting the recommendations of the Secretary of Energy, consistent with the requirements of 19 U.S.C. § 1862(b), and notes the President's agreement with those recommendations. Section 1 of the proclamation revokes Proclamation 3279; section 2 authorizes continued monitoring of oil imports by the Secretary of Energy; and section 3 continues the Libyan oil

import ban. Sections 4, 5, and 6 affirm the continued validity of actions taken pursuant to Proclamation 3279 when it was in effect.

The proposed fact sheet accurately explains the action to be taken through the proposed proclamation. I have reviewed the draft proclamation and fact sheet, and the accompanying materials, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Proclamation Entitled
"Imports of Petroleum and Petroleum
Products"

Counsel's Office has reviewed the above-referenced draft proclamation and accompanying fact sheet, and finds no objection to either item from a legal perspective.

FFF:JGR:aea 12/20/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Photo Inquiry

The Photo Office has received a request from Nike, the sports shoe and apparel manufacturer, for photographs showing the President working out in their products. The Press Office has approved the release of two photographs showing the President wearing Nike sweatpants, with the Nike name and logo prominently featured. Nike has advised the Photo Office over the telephone that they will use the photographs only in their in-house magazine, not in any advertising or promotional copy. In light of deadline pressures a prompt reply would be appreciated by Nike.

I recommend denying the request for the photographs. The President's use of brand-name athletic wear clearly identifiable as such constitutes an implicit endorsement, and we should not circulate photographs conveying such an endorsement unless it is unavoidable. I have no reason to doubt Nike's representation that they will only use the photographs in their in-house publication, but that hardly obviates the problem. Even such in-house use will give added publicity to the President's implicit endorsement, and there is no way to prevent Nike's hundreds of franchisees across the country from clipping out the item and pasting it in their store windows.

I have prepared a memorandum for your signature to Carol Greenawalt, advising her to decline the Nike request. All contact with Nike has been through telephone conversations between Greenawalt and Nike officials.

Attachment

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR CAROL GREENAWALT
PHOTO OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Nike Photo Request

You have referred to this office a request you received from Nike for photographs showing the President exercising in Nike athletic wear. Nike officials have assured you that the photographs would not be used in advertising or promotional copy, but only in Nike's in-house publication.

We must advise you to decline to provide such photographs to Nike for the stated purpose. As you are aware, the White House adheres strictly to a policy of not permitting use of the President's name, likeness, or photograph in any manner that suggests or could be construed as an endorsement by the President of a commercial product or enterprise. While we have no reason to doubt the good faith of the Nike officials, circulation of the photographs in question, even in an in-house publication, would convey just such an impression. In addition, there is no way for Nike or anyone else to police the use of the photographs by others once they are circulated.

Thank you for raising this matter with us.

FFF:JGR:aea 12/20/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Dr. Peter Ng's Case Before
U.S. Immigration

Morton Blackwell forwarded to us on December 2 a letter he received from Bob Jones III on October 26. In his letter Jones asked Blackwell to intervene in the immigration case of Dr. Peter Ng. Ng entered the United States on a nonimmigrant visa, subsequently changed to that of an alien of distinguished merit and ability, and served as a professor at Calvary Bible College. He is seeking to become a special immigrant under section 101(a)(27)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(27)(C), which accords such status to:

[A]n immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of carrying on the vocation of minister of a religious denomination, and whose services are needed by such religious denomination having a bona fide organization in the United States...

On September 19, 1983, the Atlanta INS office denied Ng's application on the ground that his employment as a professor contravened the statutory requirement that he have served as a "minister of a religious denomination" for the immediately preceding two years.

In his letter to Blackwell, Jones asserts that Ng has clearly been a minister for many years. Ng is now represented by counsel, and Jones enclosed a copy of a letter from that counsel to the INS, with numerous attachments, in support of his contentions.

I do not think it would be appropriate for the White House to become involved in any way with Ng's pending application (for reconsideration) before the INS. This is not a case, like others we have referred to INS, in which the subject is requesting information, or presents arguments that are not before INS. Ng is now represented by counsel, and the

arguments raised before us have been or are being raised before INS. There does seem to be considerable room for argument over the INS application of 8 U.S.C. § 1101(a)(27)(C) in this case, since it is not clear why service as a professor at Calvary Bible College should automatically be considered inconsistent with carrying out the vocation of a minister. Nonetheless, there is no reason for the White House to intervene on Ng's behalf.

I have prepared a response to Jones for your signature, and a memorandum for Blackwell advising him of our disposition.

Attachment

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR MORTON C. BLACKWELL
SPECIAL ASSISTANT TO THE PRESIDENT
FOR PUBLIC LIAISON

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Dr. Peter Ng's Case Before
U.S. Immigration

You forwarded to this office a letter you received from Bob Jones III, requesting the White House to intervene on behalf of a private party with an application pending before the INS. A copy of our reply to Jones is attached for your information.

Attachment

FFF:JGR:aea 12/20/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 20, 1983

Dear Mr. Jones:

Your letter of October 26, 1983 to Morton Blackwell has been referred to this office for consideration and response. In that letter and accompanying materials you outlined the circumstances surrounding Dr. Peter Ng's pending application before the Immigration and Naturalization Service (INS), and requested that the White House intervene to help Dr. Ng.

I must advise you that established White House policy does not permit such intervention on behalf of private parties with respect to matters those parties have pending before agencies with adjudicative functions, such as INS. The purpose of this policy is to maintain public confidence in the impartial administration of our laws. Accordingly, we cannot intervene with the INS on Dr. Ng's behalf.

I hope you will understand the reasons for our policy. I am sorry that we cannot be more responsive to your request.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Bob Jones III
President
Bob Jones University
Greenville, SC 29614

FFF:JGR:aea 12/20/83
bcc: FFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: D.C. Chadha Letters

The Department of Justice Office of Legislative Affairs has asked for our views on draft replies to the letters from Mayor Barry and D.C. Council members David Clarke and Wilhelmina Rolark on the Administration's position on H.R. 3932, the D.C. Chadha bill. You will recall that Barry wrote the President and Clarke and Rolark wrote you on November 15 to protest what was at the time our proposed position. You advised Barry on November 17 and Clark and Rolark on November 21 that their letters had been referred to Justice.

The proposed Justice responses, to be sent over Assistant Attorney General McConnell's signature, do little more than thank the correspondents for their views and formally transmit copies of the Justice report on H.R. 3932 as actually sent to Senator Roth. The response to Clarke and Rolark disavows any criticism of the D.C. Council. Both letters express disappointment that the views of the Department were not sought until very late in the game, note that the legislative veto was a compromise vehicle for which an alternative must be found, and express the hope that the issue may be resolved during the intersession recess.

We referred the incoming letters to Justice to keep some distance between the White House and this problem. For the same reason I do not think we should become too involved in redrafting Justice's proposed responses, which are largely unobjectionable in any event. With your approval, however, I will call the attorney at Justice handling this matter and suggest use of a more neutral sobriquet than "the Home Rule Act" in the Clarke and Rolark reply, and some stylistic changes to prevent the last sentence in the Clarke and Rolark letter, which also appears in the Barry letter, from reading as if it were an awkward translation from Bulgarian.

THE WHITE HOUSE

WASHINGTON

December 21, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Request by Convict for Justice
Department Investigation

Frank Farkas of Oxon Hill Maryland has written you to request that the President direct the Department of Justice to investigate evidence he has uncovered supposedly calling into question his convictions for tax evasion and receipt of stolen government property. Farkas alleges that fraudulently prepared documents were used to obtain his 1976 tax evasion conviction, that the FBI had informants on his 1981 stolen property jury, and that an agent perjured himself before that jury. Farkas recently lost his appeal from the latter conviction and is awaiting commencement of his five-year sentence.

This matter should be referred to Justice for appropriate handling, with a brief note to Farkas advising him that we have done so.

Attachment

THE WHITE HOUSE

WASHINGTON

December 21, 1983

MEMORANDUM FOR EDWARD C. SCHMULTS
DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request by Convict for Justice
Department Investigation

Frank Farkas of Oxon Hill, Maryland has written me to request that the President direct the Department of Justice to investigate evidence he has uncovered supposedly calling into question his convictions for tax evasion and receipt of stolen government property. I am forwarding this correspondence to you, together with a copy of my reply, for whatever action you consider appropriate.

Attachment

FFF:JGR:aea 12/21/83
bcc: FFFielding/JGRoberts/Subj/Crhn

THE WHITE HOUSE

WASHINGTON

December 21, 1983

Dear Mr. Farkas:

Thank you for your letter of December 12. In that letter you requested that the President direct the Department of Justice to investigate certain matters in connection with your convictions for tax evasion and receipt of stolen government property.

Please be advised that I have forwarded your correspondence to the Department of Justice for whatever action that department considers appropriate under the circumstances.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Frank Farkas
7801 Allentown Road
Oxon Hill, Maryland 20744

FFF:JGR:aea 12/21/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 21, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Executive Order Entitled
"Delegation to the Secretary
of State Regarding Loans
Made to Poland"

Richard Darman has asked for comments by noon December 22 on the above-referenced proposed executive order. The order would delegate to the Secretary of State the President's obligation to submit monthly reports to Congress explaining why it is in the national interest for the United States to make payments under loan guarantees and extend credit to Poland without declaring Poland in default on its debt. This obligation was first imposed in 1982 and was continued for fiscal year 1984 by the Continuing Resolution, Public Law 98-151. The proposed executive order cites the delegation statute, 3 U.S.C. § 301, and extends the delegation to any similar obligation imposed on the President by future legislation. The executive order specifies that the Secretary of State shall consult with the Secretary of the Treasury and such other agencies as may be appropriate.

The proposed order was submitted by State and has been approved by OMB and, as to form and legality, by the Office of Legal Counsel. I have reviewed the draft order and the related materials and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

December 21, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Executive Order Entitled
"Delegation to the Secretary of
State Regarding Loans Made to
Poland

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

FFF:JGR:aea 12/21/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 22, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Material for Interview
With Wire Services

Richard Darman has asked that comments on the attached briefing material be sent directly to Michael Baroody by 2:00 p.m. today. The material, for the President's year-end interview with the wire services, focuses on the progress of the economic recovery and the improvement of America's position in foreign affairs. I see no legal objections. The material ends with a list of items on which the President hopes to see Congress act. Two high-priority legal reform items are not listed and, in my view, should be. I would add "tougher criminal laws" (an understandable shorthand for our pending proposals concerning the death penalty, exclusionary rule reform, abolition of parole, limitation of the insanity defense, stronger forfeiture and sentencing laws, etc.) and "immigration reform" to the list of legislative priorities.

Attachment

THE WHITE HOUSE

WASHINGTON

December 22, 1983

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Material for Interview
With Wire Services

Counsel's Office has reviewed the above-referenced draft briefing material, and finds no objection to it from a legal perspective. I would, however, consider adding "tougher criminal laws" (an understandable shorthand for our pending proposals concerning the death penalty, exclusionary rule reform, abolition of parole, limitation of the insanity defense, stronger forfeiture and sentencing laws, etc.) and "immigration reform" to the list of legislative priorities appearing at the end of the briefing materials.

cc: Richard G. Darman

FFF:JGR:aea 12/22/83

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 22, 1983

Dear Mr. Farkas:

Thank you for your letter of December 12. In that letter you requested that the President direct the Department of Justice to investigate certain matters in connection with your convictions for tax evasion and receipt of stolen government property.

Please be advised that I have forwarded your correspondence to the Department of Justice for whatever action, if any, that Department considers appropriate under the circumstances.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Frank Farkas
7801 Allentown Road
Oxon Hill, Maryland 20744

FFF:JGR:aea 12/22/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 22, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed DOJ Report on S.J. Res. 162,
a Bill to Limit the Number of Terms
Members of Congress May Serve

OMB has asked for our views on the above-referenced proposed report. S.J. Res. 162 would amend the Constitution to limit Senators to two terms and Representatives to six, with prospective application only. Justice's brief proposed report makes no recommendation on the policy questions, noting only that the provision limiting the amendment to prospective application is confusing and needs to be clarified. This "hands off" approach is doubtless wise, and I have no objection to the proposed report.

Attachment

THE WHITE HOUSE

WASHINGTON

December 22, 1983

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ANALYST
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed DOJ Report on S.J. Res. 162,
a Bill to Limit the Number of Terms
Members of Congress May Serve

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

FFF:JGR:aea 12/22/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 22, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: U.S.S. Potomac

Cornell C. Maier has written to ask that you familiarize Admiral Shear, Administrator of the Maritime Administration within the Department of Transportation, and Secretary Dole with the substance of the November 3 meeting between the President and those involved in the effort to restore the U.S.S. Potomac. Maier indicated that his group was discussing ways in which the Maritime Administration might become involved in the project. I raised this matter at a staff meeting, and you advised me that nothing took place at the November 3 meeting beyond the organizers informing the President of their plans and activities. As you know, our role in connection with this private project has been limited to keeping the President from becoming involved in fundraising for it.

The attached draft letter to Shear, accordingly, transmits some material on the U.S.S. Potomac project but explicitly states that the White House is not involved and that he will have to decide for himself whether the Maritime Administration can and should be. I have not prepared a letter to Secretary Dole, since Shear can advise his superior if he considers it necessary or appropriate. Also attached is a reply to Maier, which I hope is tactful yet conveys the message that any decision on involvement by federal agencies will be made by those agencies without pressure from the White House.

Attachment

THE WHITE HOUSE

WASHINGTON

December 22, 1983

Dear Mr. Maier:

Thank you for your letter suggesting the possibility that the Maritime Administration become involved in the effort to restore the U.S.S. Potomac. I do not know if this is something the Maritime Administration can do, but I have advised Admiral Shear of your interest and forwarded to him one of the brochures issued by The Association for the Preservation of the Presidential Yacht U.S.S. Potomac. I am confident that the Admiral will be interested to learn of your efforts and plans, and that he will carefully consider whether the Maritime Administration is in a position to offer any assistance.

I enjoyed our meeting to discuss the Potomac restoration efforts, and once again wish you every success.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Cornell C. Maier
Chairman of the Board & CEO
Kaiser Aluminum
300 Lakeside Drive
Oakland, CA 94643

FFF:JGR:aea 12/22/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 22, 1983

Dear Admiral Shear:

Cornell C. Maier has written me requesting that I familiarize you with the substance of a meeting that took place on November 3 between the President and several individuals, including Mr. Maier, who are active in the private effort to restore President Franklin D. Roosevelt's yacht, the U.S.S. Potomac. In his letter Mr. Maier indicated that his group was considering ways in which the Maritime Administration might participate in the project.

The purpose of the meeting with the President was simply to provide those behind the U.S.S. Potomac project an opportunity to inform him of their plans and activities. We advised the organizers prior to the meeting that the President could not, consistent with established White House policy, participate in their fundraising efforts. Aside from this informational meeting, the President has had no involvement in the project.

Any participation by the Maritime Administration in the project is at your discretion. I have enclosed for your information a brochure issued by The Association for the Preservation of the Presidential Yacht U.S.S. Potomac, which contains a complete description of the efforts undertaken to restore the Potomac and the plans for the future. I have also attached a copy of my reply to Mr. Maier.

Sincerely,

Fred F. Fielding
Counsel to the President

Admiral H.E. Shear, USN (Ret.)
Maritime Administrator
Maritime Administration
400 Seventh Street, S.W.
Washington, D.C. 20590
Enclosures

FFF:JGR:aea 12/22/83

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 23, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Jonathan Bush Inquiry Concerning
Presidential Seal

As we discussed, I have advised Jonathan Bush that our office cannot approve the use of the Seal of the President on invitations to the March 6, 1984 fundraising dinner in New York. The President will address the dinner, which will benefit the Republican National Committee and the New York Republican Committee, but the invitations are being extended not by the President or the White House but by a group of New York Republican leaders. Bush stated that the Vice Presidential Seal had been used on invitations to fundraisers attended by the Vice President. I told him that we were not aware of the circumstances of those incidents, and simply reiterated our policy.

Bush then asked if the Great Seal could be used. I alerted him to the criminal prohibition in 18 U.S.C. § 713 against use of either the Great or Presidential Seal in a manner suggesting Government sponsorship, and noted that since the President and other government officials were involved in the dinner use of the Great Seal could convey the erroneous impression that the dinner was in some sense an official function. I also advised Bush that numerous complaints had been received by us and the Justice Department concerning use of the Great Seal in fundraising by the DNC and Congressional Black Caucus. Use of the Seal by the latter group resulted in a cautionary letter from the Justice Department.

Bush seems resigned to sending the invitations out without any seal. I have advised Boyden Gray of Bush's inquiry, and our response.

THE WHITE HOUSE

WASHINGTON

December 23, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decisions in
Aeroperu; Aeronaves del Peru; Compania
de Aviacion "Faucett"

Richard Darman's office has asked for comments by January 5 on the above-referenced CAB decisions, which were submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in these cases, by January 22, 1984).

The orders here have been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since these orders involve foreign carriers, the proposed letter from the President to the CAB Chairman prepared by OMB omits the standard sentence designed to preserve availability of judicial review.

These orders deny all pending applications by Peruvian carriers, in response to Peru's recent renunciation of the U.S.-Peru Air Transport Services Agreement. The Board hopes to use these orders as a bargaining chip in negotiations with Peru scheduled for January 1984.

A memorandum for Darman is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

December 23, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions in
Aeroperu; Aeronaves del Peru; Compania
de Aviacion "Faucett"

Our office has reviewed the above-referenced CAB decisions and related materials, and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aea 12/23/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 23, 1983

MEMNORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Telephone Recording Inquiry

Federal law does not prohibit an individual from recording incoming and outgoing telephone conversations to which he is a party, without advising the other party, so long as the conversation is not recorded for the purpose of committing a criminal or tortious act or "any other injurious act." Interception of wire communications is generally prohibited by 18 U.S.C. § 2511, but 18 U.S.C. § 2511(2)(d) provides that:

It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State or for the purpose of committing any other injurious act.

The Federal Communications Commission requires that anyone recording a telephone conversation give warning of this fact by means of an automatic tone warning device (an intermittent beep), "Use of Recording Devices in Connection With Telephone Service," Docket 6787; 11 F.C.C. 1033 (1947); 12 F.C.C. 1005 (November 26, 1947); 12 F.C.C. 1008 (May 20, 1948). There is, however, no penalty for violation of this rule beyond the possible loss of telephone service. Indeed, the FCC recently issued a Notice of Proposed Rulemaking to rescind the rule, on the grounds that it is unenforceable and that the issue has been addressed by 18 U.S.C. § 2511 (enacted after the FCC rule). 48 F.R. 51650 (Nov. 10, 1983).

Several states, such as California and Florida, have gone beyond 18 U.S.C. § 2511 and prohibited recording of telephone communications unless both parties have consented.

The District of Columbia statute, however, is identical to federal law on this question, permitting recording by or with the consent of only one of the parties. D.C. Code 23-543(b) (3).

THE WHITE HOUSE

WASHINGTON

December 27, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decision in
Trans-Mediterranean Airways

Richard Darman's office has asked for comments by December 27 on the above-referenced CAB decision, which was submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in this case, by January 9, 1984).

The order here has been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since this order involves a foreign carrier, the proposed letter from the President to the CAB Chairman prepared by OMB omits the standard sentence designed to preserve availability of judicial review.

This order authorizes service by the named carrier between Lebanon and New York, with seven intermediate points in Europe. OMB describes the order as a "routine, noncontroversial matter."

A memorandum for Darman is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

December 27, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision in
Trans-Mediterranean Airways

Our office has reviewed the above-referenced CAB decision and related materials, and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove this order or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aea 12/27/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 27, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed DOJ Report on S.J. Res. 200,
a Joint Resolution to Establish a
Twelve Year Limitation on Total Term
of Office for Members of Congress

OMB has asked for comments by January 5 on the above-referenced proposed report. S.J. Res. 200 would amend the Constitution to impose a limit of twelve years on any individual's service in Congress. It is similar to S.J. Res. 162, which would impose a two-term limit on Senators and a six-term limit on Representatives. Justice's proposed report on S.J. Res. 200 declines to express a view on the policy question, but does note that the issue of prospective application of the amendment needs clarification. This report is similar to the proposed report on S.J. Res. 162, which we cleared last week. I have no objection.

Attachment

THE WHITE HOUSE

WASHINGTON

December 27, 1983

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ANALYST
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed DOJ Report on S.J. Res. 200,
a Joint Resolution to Establish a
Twelve Year Limitation on Total Term
of Office for Members of Congress

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

FFF:JGR:aea 12/27/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Frank Ferro Letter to James Baker Offering
His Consulting Services During the Upcoming
Election in Return for Future Administration
Support

Frank A. Ferro, a self-annointed expert on world affairs who has frequently volunteered his views to James A. Baker III, has now written Mr. Baker to offer help (apparently of a consulting nature) in the election in exchange for support for his new company. Ferro suggests that "Administration support might come in the form of long-term consulting agreements with several government agencies."

Mr. Baker cannot accept Ferro's proposal without violating 18 U.S.C. § 600, which provides:

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

I recommend advising Ferro that it would be not only inappropriate but illegal for us to consider his proposal. I do not recommend any sort of referral to the Campaign Committee, since this could readily be misinterpreted as encouraging Ferro in his plans. A draft is attached for your review.

Attachment

THE WHITE HOUSE

WASHINGTON

December 28, 1983

MEMORANDUM FOR JAMES A. BAKER, III
CHIEF OF STAFF AND
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Frank Ferro Letter to James Baker Offering
His Consulting Services During the Upcoming
Election in Return for Future Administration
Support

You referred to this office a letter you received from Frank Ferro of New York. Mr. Ferro offered his services in the upcoming election in exchange for Administration support for his new company in the form of government contracts. A copy of my reply is attached, declining Mr. Ferro's proposed "deal" on the ground that it would be not only inappropriate but illegal under 18 U.S.C. § 600.

Attachment

FFF:JGR:aea 12/28/83

cc: FFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 28, 1983

Dear Mr. Ferro:

Your letter of December 1, 1983 to Mr. James A. Baker III has been referred to this office for consideration. In that letter you offered assistance in the upcoming election in exchange for support for your new company. You indicated that such support might take the form of consulting agreements with government agencies.

I must advise you that it is illegal for any person to promise benefits of the sort you suggested in exchange for political activity or support of a candidate in an election. Such an exchange would violate 18 U.S.C. § 600, which provides:

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

Quite apart from questions of legality, no member of this Administration would promise government benefits in exchange for political support. Government programs and contracts are administered according to applicable standards and criteria, without regard to the political activities or applications of those dealing with the government.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Frank A. Ferro
1185 Park Avenue
New York, NY 10028

FFF:JGR:aea 12/28/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Executive Order Entitled "President's
Commission on Industrial Competitiveness"

Richard Darman has asked for comments by 10:00 a.m. December 29 on the above-referenced proposed Executive Order. The Executive Order would increase the membership ceiling of the President's Commission on Industrial Competitiveness from 30 to 35 members, and extend the termination date of the Commission from September 30, 1984 to December 31, 1984. The membership limit was previously extended from the original 25 members to 30 members on September 8, 1983, by Executive Order 12440.

The proposed Executive Order has been approved by OMB and, as to form and legality, by the Office of Legal Counsel. I have reviewed the Executive Order and accompanying materials, and have no objection.

Attachment

THE WHITE HOUSE

WASHINGTON

December 28, 1983

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

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Executive Order Entitled "President's
Commission on Industrial Competitiveness"

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

FFJ:JGR:aea 12/28/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Hal J. Bonney, Jr. Letter to the President
Enclosing Copy of the National Conference of
Bankruptcy Judges First Newsletter for the
Conference Year

Hal J. Bonney, Jr., newly-elected President of the National Conference of Bankruptcy Judges, has sent the President a copy of the Conference's most recent newsletter. The newsletter features the text of an address by and a photograph of Judge Bonney, as well as remarks by Congressmen Rodino and Fish on the bankruptcy imbroglio. The judge's address advocates passage of legislation according Article III status to bankruptcy judges. His cover letter also expresses this view.

I recommend simply a brief acknowledgment to Bonney, thanking him for the newsletter and pointing out that we are working with Congress to resolve the bankruptcy crisis. I do not consider it desirable to engage Bonney in a debate on the merits in response to his sending the newsletter.

Attachment

cc: Sherrie M. Cooksey

THE WHITE HOUSE

WASHINGTON

December 28, 1983

Dear Judge Bonney:

Thank you for your letter of November 30 to the President. You enclosed with that letter a copy of the latest edition of Conference News, the newsletter of the National Conference of Bankruptcy Judges.

We appreciate receiving the newsletter, and will review its contents with interest. As you know, the Administration has been working closely with Congress to assist its efforts to devise a constitutional and practical system of bankruptcy adjudication. We are doing everything possible to urge Congress to act promptly to resolve the serious crisis that has arisen in this area.

Please accept our congratulations on your election to the Presidency of the National Conference of Bankruptcy Judges.

With best wishes,

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Hal J. Bonney, Jr.
President, National Conference
of Bankruptcy Judges
408 United States Courthouse
Norfolk, Virginia 23510

FFF:JGR:aea 12/28/83
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 29, 1983

MEMORANDUM FOR DIANE POWERS
PHOTO OFFICE

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

SUBJECT: Presidential Seal

Please send a color print of the Seal of the President to:

Mr. Tom Riedlinger
Managing Editor
Better Roads Magazine
Post Office Box 558
Park Ridge, IL 60068

Mr. Riedlinger's contemplated use of the Seal, to accompany the reprinting of a message from the President, has been reviewed and approved by this office.

Many thanks.

THE WHITE HOUSE

WASHINGTON

December 29, 1983

MEMORANDUM FOR DANIEL W. MCGOVERN
DEPUTY LEGAL ADVISER
U.S. DEPARTMENT OF STATE

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

SUBJECT: Raoul Wallenberg

Attached, as we discussed, is a copy of Professor Morris Wolff's letter to the President concerning Raoul Wallenberg. I would appreciate not only your views on the pertinence of 22 U.S.C. § 1732 but also information concerning steps our government has taken with respect to Wallenberg in response to Section 2 of Public Law No. 97-54, 95 Stat. 971.

Many thanks.

THE WHITE HOUSE

WASHINGTON

December 30, 1983

Dear Mr. Ferro:

Your letter of December 1, 1983 to Mr. James A. Baker III has been referred to this office for consideration. In that letter you offered assistance in the upcoming election in exchange for support for your new company. You indicated that such support might take the form of consulting agreements with government agencies.

I must advise you that it would be illegal for any person to promise benefits of the sort you suggested in exchange for political activity or support of a candidate in an election. Such an exchange would violate 18 U.S.C. § 600, which provides:

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

Quite apart from questions of legality, no member of this Administration would promise government benefits in exchange for political support. Government programs and contracts are administered according to applicable standards and criteria, without regard to the political activities or applications of those dealing with the government.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Frank A. Ferro
1185 Park Avenue
New York, NY 10028

FFF:JGR:aea 12/30/83

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

December 30, 1983

Dear Judge Bonney:

Thank you for your letter of November 30 to the President. You enclosed with that letter a copy of the latest edition of Conference News, the newsletter of the National Conference of Bankruptcy Judges.

We appreciate receiving the newsletter, and will review its contents with interest. As you know, the Administration has been working closely with Congress to assist its efforts to devise a constitutional and practical system of bankruptcy adjudication. We are doing everything possible to urge Congress to act promptly and responsibly to resolve the serious crisis that has arisen in this area.

Please accept our congratulations on your election to the Presidency of the National Conference of Bankruptcy Judges.

With best wishes,

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Hal J. Bonney, Jr.
President, National Conference
of Bankruptcy Judges
408 United States Courthouse
Norfolk, Virginia 23510

FFF:JGR:aea 12/30/83
bcc: FFFielding/JGRoberts/Subj/Chron