1/11/78

WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
Letter	Pres. Carter to P.M. Anker Jorgenson, 2 pp.	n.d.	A
Memo	Patricia Derian to Mr. Atherton, 15 pp. Opened 1/28/92	12/5/77	A

FILE LOCATION

Carter Presidential Papers-Staff Offices, Office of the Staff Sec.-Pres. Handwriting File 1/11/78 BOX 67

RESTRICTION CODES

(A) Closed by Executive Order 12356 governing access to national security information.
(B) Closed by statute or by the agency which originated the document.
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THE PRESIDENT'S SCHEDULE

Wednesday - January 11, 1978

8:00 Dr. Zbigniew Brzezinski - The Oval Office.

2:30 (30 min.) Senator Robert Byrd. (Mr. Frank Moore). The Oval Office.

3:30 (20 min.) Mr. Hamilton Jordan - The Oval Office.

8:00 State Commissioners of Education. The State Dining Room.

780075

THE WHITE HOUSE
WASHINGTON

January 11, 1978

Zbig Brzezinski

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Hamilton Jordan
Tim Kraft
Fran Voorde

RE: LETTER TO DANISH PRIME MINISTER CANCELLING HIS VISIT

CONFIDENTIAL ATTACHMENT

THE WHITE HOUSE

WASHINGTON

conf'd

	FOR STAFFING
	FOR INFORMATION
✓	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
	✓	JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
		McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
✓		BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
		GAMMILL

	✓	KRAFT
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
	✓	VOORDE
		WARREN

MEMORANDUM

~~CONFIDENTIAL~~

THE WHITE HOUSE

WASHINGTON

7729

~~CONFIDENTIAL~~/GDS

January 11, 1978

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: ZBIGNIEW BRZEZINSKI ZB.

SUBJECT: Letter to Danish Prime Minister Cancelling His Visit

Attached for your signature is a letter to Prime Minister Jorgensen regretting your inability to meet with him as planned this month.

RECOMMENDATION:

That you sign the letter at Tab A.

No. I'll see him for an hour or so. Handle diplomatically. I see no need for any public statement from Denmark or here

JC

~~CONFIDENTIAL~~ Jay 4/5/90

WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

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Revised:
1/11/78
9:45 a.m.

THE PRESIDENT'S SCHEDULE

NOT ISSUED

Wednesday - January 11, 1978

8:00	Dr. Zbigniew Brzezinski - The Oval Office.
10:30	Mr. Charles Schultze - The Oval Office.
10:45	Ambassador Richard Gardner. (Dr. Zbigniew Brzezinski) - The Oval Office.
2:30 (30 min.)	Senator Robert Byrd. (Mr. Frank Moore). The Oval Office.
3:30 (20 min.)	Mr. Hamilton Jordan - The Oval Office.
4:00 (15 min.)	Attorney General Griffin Bell and Judge William Webster - The Oval Office.
5:00	Mr. Bert Lance - The Oval Office.
8:00	State Commissioners of Education. The State Dining Room.

(Reverse side)

No X Patrol
Attrition rate
Mill: Ken
Hyannis
Paperwork
Dept of Ed
Indian ed.

PRES DAN TAYLOR
VP JOHN PORTER

State School Supts 1/11/78

CALIF / BOYER / BERRY

MY PAST - AMY

PROBLEMS
ENROLMENT ↘
QUAL ↗
TESTING / COMPETENCE
LOCAL / STATE ROLE
PAPERWORK
BASIC SKILLS

(Reverse side)

Byrd -
Panama - Baker - Amend - TV
Energy 9-9 - timing
Bus - Meany - Black - Burns
O'Neill
Com chmn 1/16-18
Campaign trips
John White

WILLIAM H. WEBSTER

United States Circuit Judge
Eighth Circuit

C

Born:	March 6, 1924 Age: 53	St. Louis, Missouri
Legal Residence:	Missouri	
Marital Status:	Married	Wife--Drue Lane 3 children
Education:	1941-1943 1946-1947	Amherst College A.B. degree
	1947-1949	Washington University Law School J.D. degree
Bar:	1949	Missouri
Military Service:	1943-1946 1950-1952	United States Navy
Experience:	1949	McDonald & Wright St. Louis, Missouri
	1949-1959 1961-1970	Armstrong, Teasdale, Kramer & Vaughan
	1959-1961	United States Attorney Eastern District of Missouri
	1970-1973	United States District Judge Eastern District of Missouri
	1973 to present	United States Circuit Judge Eighth Circuit
Political Affiliation:	Republican	
Ethnic Group:	Caucasian	

780098

THE WHITE HOUSE
WASHINGTON

January 11, 1978

Jody Powell

The attached was returned in the President's outbox. It is forwarded to you for your information.

Rick Hutcheson

RE: CETA FUND USE -- NBC SPECIAL

THE WHITE HOUSE

WASHINGTON

1-11-78

To Ray Marshall

You may want to get a transcript of last night's NBC special on CETA fund use.

It was disturbing, if accurate.

Jimmy

780097

THE WHITE HOUSE
WASHINGTON

January 11, 1978

Jody Powell

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

RE: DECEMBER UNEMPLOYMENT AND RETAIL SALES

EYES ONLY

THE WHITE HOUSE

WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
X		POWELL
		WATSON
		McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
		GAMMILL

		KRAFT
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
		VOORDE
		WARREN

cc Jody

THE PRESIDENT HAS SEEN.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

EYES ONLY

January 10, 1978

MEMORANDUM FOR THE PRESIDENT

From: Charlie Schultze CLS

Subject: December Unemployment (to be released Wednesday, 9:00 a.m.) and Retail Sales (released this afternoon)

As I told you Saturday, the unemployment rate fell to 6.4 percent in December.

The Bureau of Labor Statistics has revised its seasonal adjustment factors. As a consequence of the revision the unemployment rates for the early part of 1977 are now shown as slightly higher than earlier and for the latter months, prior to December, slightly lower:

	1977 Unemployment Rates	
	Old	New
1Q	7.4	7.5
2Q	7.0	7.1
3Q	7.0	6.9
4Q	6.8	6.6
October	7.0	6.8
November	6.9	6.7
December	6.4	6.4

Employment in December rose by about 410,000, while the labor force fell by 70,000. As a consequence, unemployment fell by 480,000. The independently collected data from business firms show a 220,000 increase (in the face of the coal strike which lowered mining employment by 150,000). The two series together confirm a strong rise in employment.

Unemployment rates fell in every major category:

		November	December
White:	total	6.0%	5.6%
	men, 20+	4.3	4.1
	women, 20+	6.2	5.9
	both sexes, 16-19	14.5	12.6
Black:	total	13.8	12.5
	men, 20+	10.3	9.1
	women, 20+	12.5	11.2
	both sexes, 16-19	39.0	37.3

(Warning: The new seasonal adjustment factors are now available only for the total unemployment rate. The table above is unrevised; the declines may be slightly less for some categories when the revisions are completed, about a week from now.)

Interpretation

The December data confirm a healthy increase in the economy in the latter months of 1977. The data revisions also imply that the unemployment rate has been doing slightly better than we thought for several months.

The exceptionally strong rise in employment in the last two months -- 1.35 million -- may reflect some statistical aberration, but undoubtedly there have been very strong gains. (From June to December these data, based on a survey of households, show a nonfarm employment increase of 1.9 million. A survey of business firms and governmental units, which excludes the self-employed, shows an increase of 1.3 million during the same period.)

Over the past year (December to December)

- Employment rose by 4.1 million (a record)
- Unemployment fell by 1.2 million (1.4 percentage points -- 7.8 to 6.4 percent)
- White unemployment fell from 7.1 to 5.6 percent
- Black unemployment fell from 13.4 to 12.5 percent, a significantly smaller decline
- Unemployment among youths 16 to 19 declined from 19.0 to 15.4 percent. However, the bulk of the decline occurred among white teenagers; the black youth unemployment rate has declined very little.

Query: Does this strong showing undercut the need for a tax cut in 1978, or at least suggest it be scaled down?

Answer: No. The tax cut, which will be recommended with an effective date of October 1, 1978, is not designed to "rescue" an economy on the verge of recession or stagnation. Rather, it is part of a long-term strategy:

- to exercise discipline over Federal spending, and reduce its rate of growth,

- to reduce taxes on consumers and business firms in order to keep the recovery going, with the private sector in the vanguard -- improving consumer purchases and expanded business investment.

Retail Sales (released Tuesday afternoon, January 10)

To help confuse matters, retail sales fell in December, by 0.7 percent. Auto sales were about constant, but sales of other merchandise declined.

You may have seen stories about the large increase in department store Christmas sales. They did rise. The "general merchandise" category of retail stores (principally department stores) rose by 1.3 percent in December and was 13.4 percent over the prior year.

Despite the decline in December, retail sales for the fourth quarter as a whole were a strong 3.4 percent above the third quarter.

THE WHITE HOUSE

WASHINGTON

	FOR STAFFING
	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
/		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
		McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
		GAMMILL

		KRAFT
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
		VOORDE
		WARREN

THE WHITE HOUSE
WASHINGTON

11:40 am
1-11-78

Jim Schlesinger

Hassan: MidE cable
S. Arabia - Energy Issues → Production
Aramco → Iran

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

January 11, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE FM

I neglected to tell you in my Panama briefing that Senator Baker called former President Ford at least once--and I think twice--and dispatched his Chief of Staff, Jim Cannon, from Panama to personally brief Ford on Baker's visit.

780072

THE WHITE HOUSE
WASHINGTON

January 11, 1978

The Vice President
Stu Eizenstat
Frank Moore
Jim McIntyre
Charles Schultze
Landon Butler

The attached was returned in the President's outbox and is forwarded to you for your information. Sec. Kreps and Blumenthal will be informed of the President's decision.

Rick Hutcheson

RE: TAX REFORM: DEFERRAL AND PREPAID LEGAL INSURANCE

Blumenthal was sent his memos only

THE WHITE HOUSE
WASHINGTON

also memo for to keep re defense decision

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

send all

send Blumenthal & keeps their memos only

ACTION	FYI	
	X	MONDALE
		COSTANZA
	X	EIZENSTAT
		JORDAN
		LIPSHUTZ
	X	MOORE
		POWELL
		WATSON
	X	McINTYRE
	X	SCHULTZE - cc my note

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

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		BOURNE
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	X	BUTLER
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		H. CARTER
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		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
		GAMMILL

		KRAFT
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
		VOORDE
		WARREN

THE WHITE HOUSE
WASHINGTON

1/11/78

Mr. President:

No comment from McIntyre.

If Schultze has a comment, I will forward it by Noon today.

Rick

IMMEDIATE ACTION REQUESTED

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

January 10, 1978

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT
BOB GINSBURG Stu

SUBJECT: Tax Reform: Deferral and Prepaid Legal Insurance

I. Deferral

In your decision on deferral, you instructed Treasury to either limit the deferral period to three years or, if that proved too difficult, eliminate deferral. Treasury has determined that the three-year limitation is unworkable and now recommends a partial (60%) phaseout of deferral.

We believe that it would be a mistake for the Administration to propose only a partial elimination of deferral and recommend that you stick to your decision for complete elimination:

1. For the Administration to propose only partial elimination would raise the question of whether we really believe deferral is bad tax and economic policy. If we back down on that fundamental principle in our initial proposal, we will have lost a good deal of the strength and integrity in our argument and it will become difficult to draw any rational line. While we may have to eventually accept only a partial elimination as a final compromise, there is no reason to put forth such a weak proposal at the outset.

2. As Treasury points out, the average foreign subsidiary currently repatriates (and subjects to U.S. tax) about half of its earnings. Accordingly, a 60% partial elimination over three years would have no impact on the average foreign subsidiary in the first two years and would thereafter have only a 10% effect. Your credibility on this issue and on tax reform generally could come under severe criticism with a proposal of this kind.

3. A partial elimination would probably encourage multinationals to rearrange their businesses among high

and low repatriation foreign subsidiaries to avoid the cutoff point--the very kind of financial manipulation and tax avoidance that the existence of deferral has given rise to and that the complete elimination of deferral would seek to end.

The only serious question in our minds about the Administration's deferral proposal is whether we should seek the immediate elimination of deferral or phase it out over several years. We recommend that the Administration propose the complete elimination of deferral over a three-year period (33 1/3% per year). We have discussed this question with Bob Shapiro, Chief of Staff of the Joint Tax Committee, and he agrees that a proposal for complete elimination over three years would show the Administration to be firm on the principle of ending deferral but reasonable on its implementation (allowing corporations to adjust to the change, etc.) and would probably stand a greater chance of passage than immediate elimination.

A three-year period also has the virtue of phasing deferral out over the same time period as DISC. If we propose complete elimination over a four- or five-year period (Treasury alternative options), we would have to justify giving deferral better treatment than DISC--that might be difficult to do since DISC at least makes some positive contribution to U.S. employment (although at extremely high cost) while deferral works in the opposite direction. Using different phaseout periods could complicate and weaken our arguments on both issues.

Decision

_____ Eliminate 100% of deferral immediately

✓ Eliminate 100% of deferral over three years, 33 1/3% per year (Our recommendation)

_____ Eliminate 100% of deferral over 4 or 5 years

_____ Eliminate 60% of deferral over three years (Treasury recommendation)

_____ Eliminate 75% of deferral over three years

II. Prepaid Legal Insurance

We recommend that you approve Secretary Blumenthal's request that he be authorized to drop this proposal in exchange for active UAW support of our reform program.

Repeal of the tax exemption for prepaid legal services would be appropriate in a comprehensive tax reform program. But when we have dropped such major items affecting business as capital gains, DISC recapture, depletion allowances, intangible drilling costs, etc., we believe it would be a serious political mistake to go after this relatively minor preference affecting labor. We would be taking on organized labor and the bar associations for relatively little gain.

In addition, we will need enthusiastic union support (they will be our principal allies) to pass the far more important reform items that remain.

We know the Vice President likewise believes strongly that this item should not be in our program.

Decision

✓ Drop repeal proposal on prepaid legal insurance in exchange for active UAW support for our reform program (Recommended)

_____ Retain proposal to repeal tax exemption for prepaid legal insurance

JC

Blumenthal & Kreps
Memos on Deferral

ACTION

THE SECRETARY OF THE TREASURY

WASHINGTON 20220

MEMORANDUM FOR THE PRESIDENT

Subject: Deferral

On the tax reform decision memorandum you indicated that we should propose limiting deferral of foreign income to three years and, if that proved too complex, to propose outright elimination of deferral. We have examined the concept of permitting deferral for three years and have concluded that it is prohibitively complex. We have, however, developed four alternatives.

The four alternatives phase out deferred taxation of foreign subsidiary earnings: a minimum percentage of subsidiary income would be taxed currently to the U.S. parent, even if actual distributions are less than this minimum.

Under the first option 20 percent of each subsidiary's income would be taxed to the U.S. parent in 1979, 40 percent in 1980 and 60 percent in 1981 and thereafter. Those subsidiaries which distribute little or no income would be hit immediately. By 1981 those who distribute half of their income -- the typical case -- would also be affected.

A second option would vary the percentages of the first option so that 25 percent is taxable to the U.S. parent in 1979, 50 percent in 1980 and 75 percent in 1981 and thereafter.

A third option extends the first: the minimum percentage would increase to 80 percent in 1982 and 100 percent in 1983 (i.e., deferral would be terminated as of 1983).

The fourth option extends the second by raising the minimum percentage to 100 in 1982.

We strongly favor option 1 for the reasons previously stated to you as to why elimination of deferral is inappropriate, plus the additional reason that a limited and partial deferral (40 percent remains under option 1 and 25 percent under option 2) would "neutralize" the present tax advantages of domestic over foreign investment (the investment credit and accelerated depreciation).

Recommendations:

The following issues are presented for your decision.

A. As an alternative to three-year deferral, some minimum percentage of foreign subsidiary income should be recognized currently by U.S. shareholders.

Agree _____
(My recommendation)

Disagree _____

Want to discuss further _____

B. Under the alternative, the minimum percentage should:

start at 20 percent in 1979, go to 40 percent in 1980 and 60 percent in 1981 _____
(My recommendation)

start at 25 percent in 1979, go to 50 percent in 1980 and 75 percent in 1981 _____

continue to 80 percent in 1982 and to 100 percent in 1983 (after 20 percent - 40 percent - 60 percent the first 3 years) _____

continue to 100 percent by 1982 (after 25 percent - 50 percent - 75 percent the first 3 years) _____

Eliminate in 3 years (1/3 ea year)
J.C.

Mike
W. Michael Blumenthal

THE SECRETARY OF COMMERCE

WASHINGTON, D.C. 20230

January 11, 1978

MEMORANDUM FOR THE PRESIDENT

FROM : Juanita M. Kreps

SUBJECT: Tax Deferral of Foreign Earnings

The date is rapidly approaching when you will announce your proposals for tax reduction and selected tax reform. Considering the package overall, I am very optimistic about how the proposals will be received by the Congress and the public at large. I remain concerned, however, about the foreign tax deferral issue, how business will react if elimination of deferral is included among the proposals, and whether a proposal to repeal or phase out deferral will help or hinder acceptance of the whole tax package.

It would be good if we could avoid having the tax package bogged down by Congressional wrangling over a proposal to eliminate deferral. Yet, for reasons I would like to indicate, I think this is a worrisome possibility. We know that the Task Force on Foreign Source Income of the Committee on Ways and Means, which was chaired by Dan Rostenkowski and which issued its report in March 1977, recommended not changing the tax deferral provisions. Unless there has been a sharp change in attitude on the Ways and Means Committee, that suggests any proposal to eliminate deferral will start off with one strike against it.

We also know that the Task Force did recommend some changes to our international tax provisions. A proposal to eliminate deferral may goad Ways and Means into tackling the other international tax issues as well. That could stall legislation.

Business will almost certainly mount a campaign to convince Congress to retain foreign tax deferral. With hardly an exception, corporate leaders oppose its elimination. The opposition exists in practically all industries. Business cites the weakness of the dollar and the general nervousness of international financial markets as reasons why this is not the time to tamper with the international operations of American industry. Everybody admits that business investment is inadequate now. But the major U.S. corporations are likely to claim that elimination of deferral will represent just one more disturbance to the general investment climate--a disturbance which, given the nature of their worldwide operations, cannot be isolated from their domestic activities.

In light of these considerations, it is not at all clear to me that we can win in Congress on this issue. I suspect defeat or Congressional fiddling and delay are more likely. On political grounds, I wonder if we really want to press forward with repeal or phaseout of deferral. Moreover, given the highly complex and little understood nature of foreign tax deferral, it does not seem to me that the public in general will appreciate what has been accomplished even if we win the Congressional battle.

Opponents to the elimination of deferral will stress the following points:

- Eliminating deferral will not increase investment (and jobs) in the United States. American firms have invested abroad to tap foreign markets or to gain access to raw materials not available in the United States. Lacking new incentives to invest in the United States, elimination of deferral will not bring their investment dollars back home.

- But eliminating deferral will put the foreign operations of U.S. companies at a competitive disadvantage relative to the foreign operations of companies based elsewhere. Excluding the U.K., all other principal industrialized countries permit some form of tax deferral; some do not even tax foreign earnings after they are repatriated.

- Eliminating deferral will add to an already substantial uncertainty that surrounds the whole field of international taxation. American industry has yet to digest the international tax changes included in the Tax Acts of 1975 and 1976. The IRS has yet to issue important rulings and interpretations on these changes. Repeal of deferral at this time is not consistent with the Administration's stated objective of trying to reduce business uncertainty.

- Eliminating deferral will not simplify international taxation. Without deferral, U.S. companies will face all the complexities of international tax on an annual basis. Administrative and legal complications will mount as, each year, U.S. subsidiaries adjust their books, financial reports, and tax filings back and forth to comply with U.S. and foreign tax rules and authorities. IRS will have to increase its foreign auditing activities; more tax bureaucracy, not less, will be the almost certain outcome.

- Eliminating deferral is unlikely to produce much in the way of a long-term tax revenue gain, only differences in the timing of tax collections. Moreover, rather than letting the U.S. Government increase its tax bite, foreign governments can raise their own tax rates on U.S. subsidiaries.

- Eliminating deferral would hurt developing countries. Tax deferral may attract some U.S. investment in developing countries because of their low tax rates. That attraction, whether weak or strong, would disappear with the repeal of deferral; this would be a step back from the U.S. commitment to assist the developing countries.

These, plus a number of technical points, are the arguments that the advocates of deferral will try to drive home to Congress.

Thus we are likely to lose on the Hill, and I do not see what political advantage we can gain from losing that fight. Or the fight itself may stall passage of the whole tax package with a penalty to our economy that could seriously outweigh the benefits of getting deferral off the books. If these risks are at all real -- and I believe they are -- they argue for leaving the deferral issue to a time when we have less pressing need for tax reductions to keep the economy on track.

We'll all have to fight together

JC

Blumenthal Memo
on Prepaid Legal
Insurance

THE SECRETARY OF THE TREASURY

WASHINGTON 20220

January 9, 1977

MEMORANDUM FOR THE PRESIDENT

Subject: Tax Reform Program -- Repeal of Prepaid Legal Expenses Exclusion and UAW Support

Our tax reform program presently contains a proposal to repeal the tax exemption for group legal services plans.

Though I strongly supported the repeal, I have now, with some reluctance, come to agree with the Vice President and Stu Eizenstat that we should drop the proposal.

The United Auto Workers (UAW) very strongly opposes repeal of the exemption. If we drop the proposal, the UAW can likely be persuaded to support and work hard for our whole package. If the proposal remains in the program, however, the UAW will focus most of its energies on defeating that one item. Unqualified UAW support for the package would substantially improve our prospects in the Congress.

The repeal proposal is a relatively minor item and is not linked to any of our other proposals. At some later date, we may wish to deal comprehensively with tax preferred forms of compensation. That would be the logical time to propose repeal of the group legal services exemption.

DECISION

Do I have your authority to drop the repeal proposal in exchange for active UAW support for our entire reform package?

Approve ✓ Disapprove _____

Mike

W. Michael Blumenthal

JC

ID 780072

THE WHITE HOUSE

WASHINGTON

to Pres 10:30 Schultze by Noon

DATE: JAN 11 78

FOR ACTION: JIM MCINTYRE NC per Bo Cutter (phone) CHARLES SCHULTZE

INFO ONLY: THE VICE PRESIDENT HAMILTON JORDAN

FRANK MOORE (LES FRANCIS) JACK WATSON

FROM: RICK HUTCHESON WHITE HOUSE STAFF SECRETARY PHONE 456-7052

SUBJECT EIZENSTAT MEMO DATED 1/10/78 RE TAX REFORM; DEFERRAL AND PREPAID LEGAL INSURANCE

RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY

BY JAN 11 78

ACTION REQUESTED: IMMEDIATE TURNAROUND

STAFF RESPONSE: ( ) I CONCUR. ( ) NO COMMENT. ( ) HOLD; DO NOT FORWARD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE

WASHINGTON

11 January 1978

MEMORANDUM FOR
THE HONORABLE JUANITA M. KREPS
Secretary of Commerce

Re: Tax Reform: Deferral

On the above issue, the President decided to eliminate 100% of deferral over three years, 33 1/3% per year.

Rick Hutcheson
Staff Secretary

ID 780072 THE WHITE HOUSE +1

WASHINGTON

DATE: JAN 11 78

FOR ACTION: JIM MCINTYRE 1978 JAN 11 AM 10 37 CHARLES SCHULTZE

Cale Loudon

INFO ONLY: THE VICE PRESIDENT HAMILTON JORDAN

FRANK MOORE (LES FRANCIS) JACK WATSON

FROM: RICK HUTCHESON WHITE HOUSE STAFF SECRETARY PHONE 456-7052

SUBJECT EIZENSTAT MEMO DATED 1/10/78 RE TAX REFORM; DEFERRAL AND PREPAID LEGAL INSURANCE

RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY

BY JAN 11 78

ACTION REQUESTED: IMMEDIATE TURNAROUND

STAFF RESPONSE: (X) I CONCUR. ( ) NO COMMENT. ( ) HOLD; DO NOT FORWARD.

PLEASE NOTE OTHER COMMENTS BELOW:

We strongly concur with the recommendation to drop repeal proposal on prepaid legal services. It will surely be dropped on the Hill even if we propose it and to do so will be viewed as a serious affront by labor and consumer groups.

Doug Fraser has personally
spoken to us about his keen
interest in having this dropped.

Watson / Franke

THE WHITE HOUSE
WASHINGTON

Re Meeting with Senator Byrd

TIME is doing a story on the Senator, and will send in their photographer with the White House photographer.

2:30 P.M.

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

C

January 10, 1978

MEETING WITH SENATOR ROBERT BYRD
Wednesday, January 11, 1978
2:30 P.M. (1 hour)
The Oval Office

From: Frank Moore F.M.

I. PURPOSE

To discuss the Panama Canal and other aspects of the 1978 agenda.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

A. Background: Senator Baker has requested a meeting with you to discuss the Panama Canal Treaties and to deliver a message from General Torrijos. You have requested this meeting with Senator Byrd prior to the Baker meeting to get his thoughts on how to deal with the Minority Leader's developing position on the Treaties. Senator Byrd may be sensitive to the publicity Senator Baker is receiving on the Treaties. Nevertheless, it is obvious that Baker and Byrd will have to work closely together to defeat those who want to add unacceptable amendments to the Treaties. This meeting should lay the groundwork for future fruitful contacts between the Minority and Majority Leaders.

B. Participants: The President
Senator Byrd
Frank Moore

C. Press Plan: White House Photo only.

III. TALKING POINTS - PANAMA CANAL

1. On the Panama Canal Treaties, you should solicit Byrd's opinion on the best way to hold the line against the expected blizzard of amendments, reservations and understandings on the Senate floor.

2. You should also ask how you can best deal with Senator Baker in your meeting with him next week. We recommend you explain that you want to contribute as much as possible to any efforts Senator Byrd may make to approach Baker or to formulate a common strategy.

3. We recommend you tell Senator Byrd that we have a current vote count on the Treaties that we will share with either him or his staff whenever he thinks it appropriate. The vote count is on our computer under very restricted access. It is updated on a daily basis and categorizes Senators on the basis of their anticipated positions on crippling amendments.

4. You should also discuss the timing of your address to the nation on the Panama Canal Treaties.

IV. TALKING POINTS - ENERGY

1. Ask Senator Byrd's assessment of breaking the 9 - 9 deadlock.

2. Ask Senator Byrd's best assessment of timing of energy legislation and how it will affect legislative agenda.

V. FURTHER TALKING POINTS

1. You might reveal to Senator Byrd your consultative timetable on economic and legislative programs (remember Vice President Mondale, Stu Eizenstat and Frank Moore have already met with Senator Byrd on the legislative agenda).

2. You should advise Senator Byrd that you are meeting this week with business leaders and black leaders.

3. Advise Senator Byrd that you will meet with Speaker O'Neill next week. The Vice President has not met with the Speaker, but Moore has met with O'Neill's staff.

4. You should let Senator Byrd know that you will meet with Committee chairmen regarding the '78 agenda on January 16, 17 and 18.

5. You should mention that you have your staff working on recommended trips for incumbent Senators facing tough races and that you will campaign hard beginning this Spring.

780058

THE WHITE HOUSE
WASHINGTON

January 11, 1978

Jim McIntyre

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Frank Moore
Zbig Brzezinski

RE: NAVY SHIPBUILDING PLANS

THE WHITE HOUSE

WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
	X	MOORE
		POWELL
		WATSON
X		McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
	X	BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
		GAMMILL

		KRAFT
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
		VOORDE
		WARREN

THE WHITE HOUSE
WASHINGTON

Mr. President:

Congressional Liaison concurs with McIntyre's recommendation.

Rick (wds)

THE PRESIDENT HAS SEEN.

cc: Jim

Price: "ok"
Stennis: "ok"
J

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

January 10, 1978

MEMORANDUM FOR THE PRESIDENT

From: James T. McIntyre, Jr. Jim McIntyre

Subject: Navy Shipbuilding Plans

In the 1979 Defense budget, you deleted advance funding for a medium-sized aircraft carrier (CVV). Further, you deferred a decision on whether any carrier should be built in the next five years, pending the completion of a Defense study of the issue. That study is to be completed by the Navy in February or March, 1978.

We recommend that you call Senator Stennis and Representative Price this week to obtain their support for your 1979 shipbuilding program and their advice on longer-range shipbuilding plans. Word of your decisions is leaking out, and some people may try an end run to the Committees to get a larger shipbuilding program. The House Armed Services Committee is especially likely to add a nuclear carrier (CVN), costing $2 billion and maybe the nuclear AEGIS ship (CGN) costing $1.1 billion. The Senate Committee may also be leaning toward adding a carrier.

To head off this potential budget threat, a commitment from Stennis and Price to await the results of the study would be useful. They should be made aware that final decisions for aircraft carriers have not been made. Further, they could be informed that after you review the Defense study with Secretary Brown, you will inform them of your decision. Without your personal commitment to these two gentlemen, the Congress is likely to develop its own five-year shipbuilding plan which will include one or more new nuclear carriers. If they believe the program is unacceptably low, you might want to consider adding $700 million and 2 DD-963 class destroyers to the 1979 program. These ships would be useful anti-submarine warfare assets. In addition, the Ingalls Shipyard in Mississippi, where they are built, is running out of work.

Because a carrier decision will not be made prior to completion of the Defense study, specific outyear shipbuilding plans should not be provided to the Congress with the 1979 budget. Current law, however, requires submission to Congress of:

-- 1980 authorization requests by May 15, 1978.

-- The Five-Year Defense Program for construction of nuclear-powered major combatant vessels and an update of the previous five-year shipbuilding plan concurrent with the budget submission.

We see two ways to proceed:

Option A: Submit a 1980 Authorization and a five-year plan with no new carriers. Submit an amended budget and five-year plan, in the spring, if you decide to proceed with a new carrier.

Option B: Submit a 1980 Authorization and a five-year shipbuilding plan that specifies total dollars but not specific ships. Provide a specific list of ships for 1980-1983 when a carrier decision is made this spring.

Option A has the advantage of providing Congress with a specific shipbuilding program while reserving the option of adding a carrier later if they desired. Its disadvantage is that it implies that you have already decided against building any new carriers.

Option B leaves the decision completely open and is consistent with the way military construction authorizations are handled. Its disadvantage is that some members of Congress might consider it contrary to the intent of the laws requiring submission of future-year shipbuilding information.

Recommendation: Option B, and that you call Senator Stennis and Congressman Price this week.

Decision

Option A: _____

Option B: ✓

Other: _____

JC

ID 780058

THE WHITE HOUSE

WASHINGTON

DATE: JAN 10 78

FOR ACTION: FRANK MOORE (LES FRANCIS) concur by phone

INFO ONLY: THE VICE PRESIDENT

ZBIG BRZEZINSKI

BOB LIPSHUTZ

FROM: RICK HUTCHESON WHITE HOUSE STAFF SECRETARY PHONE 456-7052

SUBJECT MCINTYRE MEMO DATED 1/10/78 RE NAVY SHIPBUILDING PLANS

RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY

BY JAN 10 78

ACTION REQUESTED: IMMEDIATE TURNAROUND REQUIRED

STAFF RESPONSE: ( ) I CONCUR. ( ) NO COMMENT. ( ) HOLD; DO NOT FORWARD.

PLEASE NOTE OTHER COMMENTS BELOW:

180084

THE WHITE HOUSE
WASHINGTON

January 11, 1978

Stu Eizenstat
Jim McIntyre

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

This decision should be closely held so that the Vice President may announce it.

Rick Hutcheson

RE: BARLEY TARGET PRICE

cc: The Vice President

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

Note - This ~~info~~ decision should be closely held so that the VP may announce it.

ACTION	FYI	
	/	MONDALE
		COSTANZA
/		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
/		McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
		GAMMILL

		KRAFT
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
		VOORDE
		WARREN

THE PRESIDENT HAS SEEN.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JAN 11 1978

MEMORANDUM FOR: THE PRESIDENT

FROM: JIM McINTYRE Jim
STU EIZENSTAT Stu

SUBJECT: Barley Target Price

You may recall that we recommended a check be made with Congressional members regarding Secretary Bergland's proposal to raise the 1977 crop barley target price. Our hope was to avoid a $200 million outlay on a crop already harvested.

Frank Moore's staff has checked with Senator Talmadge and Congressman Foley, Chairmen of the House and Senate Agriculture Committees. Although they do not feel strongly about the matter, both Chairmen told us that many members of their committees do. In addition, Congressman Mahon has indicated to us that he would regard a decision not to raise the target price as a failure to meet a specific Administration commitment.

In view of this, we reluctantly conclude that Secretary Bergland should follow up on his commitment and raise the target price.

Decision

[✓] Concur in raising the 1977 barley target price.

[ ] Other:

I already sent you a memo
J

180050

THE WHITE HOUSE
WASHINGTON

January 11, 1978

Bob Lipshutz

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Stu Eizenstat
Frank Moore
Jim McIntyre

RE: IMPLEMENTATION OF THE MEYERS AMENDMENT

THE WHITE HOUSE

WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
	X	EIZENSTAT
		JORDAN
X		LIPSHUTZ
	X	MOORE
		POWELL
		WATSON
	X	McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
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		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
		GAMMILL

		KRAFT
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
		VOORDE
		WARREN

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

January 9, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT LIPSHUTZ RL
MARGARET McKENNA MK

SUBJECT: Implementation of the Meyers Amendment

On January 21st you issued a Proclamation which granted, with certain exceptions, an unconditional pardon for Vietnam era violations of the Selective Service laws. An Executive Order which you signed directed the Attorney General to take certain actions necessary to carry out the pardon Proclamation. The Immigration and Naturalization Service has been "paroling" into this country aliens who applied for re-entry pursuant to the pardon. To date, a total of 48 individuals have taken advantage of this program.

The present controversy arises as a result of the "Meyers Amendment" which was attached to the Appropriations Act for the Department of Justice which prohibits the use of appropriated funds to carry out the pardon. The Meyers Amendment did not take effect until October 1, 1977. Since that time, the Justice Department has continued to parole individuals covered by the pardon, keeping records of the time and cost involved in the process. The decision was made to do this because of the Administration's commitment to the pardon program and because of the question of the Constitutionality of the Meyers Amendment. In signing the Appropriations Act, you signed a statement which raised the Constitutionality issue. We waited to bring this to you until we had some idea of the cost involved. We must now decide how to justify the continued paroling of these individuals into the country.

OPTIONS

1. Disregard the Meyers Amendment. You would direct the Attorney General to ignore the Meyers Amendment, in essence, just ignore the law.

a. Advantages

This approach would be forthright. It would be premised on your decision not to follow an unconstitutional law. Also, it might be most beneficial to the aliens in terms of prompt admission and relieving them of the burden of one of them challenging this section in a court.

b. Disadvantages

The Executive branch has an obligation to attempt insofar as possible to construe a statute as to preserve its Constitutionality. The Meyers Amendment is ambiguous. It leaves open the possibility of using funds appropriated by other statutes. If the Executive branch merely disregards Section 706, the argument could be made that it is acting contrary to the duty to pursue other less extreme courses. This approach might provoke a confrontation with Congress. A confrontation would not likely be susceptible to a resolution in court, because of the question of the ability of a Member of Congress to sue the Executive branch. If litigation does occur, there is always the possibility of an unfavorable judicial determination.

2. Seek to Minimize the Effect of the Meyers Amendment. Section 706 could be construed narrowly by allowing other monies other than those appropriated for the Justice Department to be used to carry out the implementation of the pardon. The only logical source of these funds would be White House funds, either those in "unanticipated needs" or in the appropriation for salaries and expense of the White House. The Justice Department believes that use of either of these funds is legally permissible.

a. Advantages

This approach would seem to be consistent with your obligation to carry out laws passed by Congress and their obligation to the rights of individuals affected by the pardon.

b. Disadvantages

Members of Congress might assert that the Executive branch is resorting to subterfuge and is distorting the intent of Congress.

Conclusion

From January 1st to December 6th, 48 individuals took advantage of the provisions of the pardon and were readmitted to the country. Less than $300 was spent in the processing of these individuals. Because the cost is minimal, because we believe that an individual will in fact challenge the Constitutionality of this section, and because a confrontation with Congress on an issue like this does not seem wise, we recommend that White House funds be utilized. The Meyers Amendment has effect only for appropriations for 1978. After October 1st, 1978, the Justice Department could then again absorb the cost.

Option 1: Disregard the Meyers Amendment

Approve _____

Disapprove _____

Option 2: Utilize White House Funds to Carry Out Implementation of the Pardon. Recommended by the Attorney General, Eizenstat, Moore and Lipshutz.

Approve ✓

Disapprove _____

JC

THE WHITE HOUSE
WASHINGTON
January 10, 1978

The Vice President
Stu Eizenstat
Hamilton Jordan
Frank Moore
Jody Powell
Jim McIntyre

The attached is forwarded to you for your information.

Rick Hutcheson

RE: IMPLEMENTATION OF THE MEYERS AMENDMENT

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
/	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
	/	MONDALE
		COSTANZA
	/	EIZENSTAT
	/	JORDAN
		LIPSHUTZ
	/	MOORE
	/	POWELL
		WATSON
	/	McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

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		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
		VOORDE
		WARREN

780060

THE WHITE HOUSE
WASHINGTON

January 11, 1978

Hamilton Jordan
The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

RE: M. HAFT'S SECURITY VIOLATION

Ham -
This is not the kind of memo to leave kicking around
J
(I don't object to the memo)

THE WHITE HOUSE

WASHINGTON

January 10, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: HUGH CARTER

SUBJECT: Marilyn Haft's Security Violation
(Per Your Request)

Attached is the document you asked about. It was sent to Marilyn by Pat Derian for Marilyn and Midge's information.

THE PRESIDENT HAS SEEN.

Hugh

What secret type documents are handled by Mr Hoft?

J

THE WHITE HOUSE

WASHINGTON

January 9, 1978

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR THE PRESIDENT

FROM: HUGH CARTER HC

SUBJECT: Security Violations (Per Your Request)

Attached are copies of the security violations for the month of December.

ASSISTANT SECRETARY OF STATE
WASHINGTON, D.C. 20520

December 5, 1977

07

~~SECRET~~

MEMORANDUM

TO: NEA - Mr. Atherton

FROM: HA - Patricia M. Derian

SUBJECT: Recent Events in Iran

Roy, I know you have been watching the recent disturbances in Tehran and elsewhere in Iran carefully and that the President discussed human rights with the Shah. But, as far as I know, President Carter did not mention Martin Ennals' Amnesty International letter to the President urging him to discuss in some detail various specific problems with the Shah. I think Mr. Ennals' letter has not been answered. We have received some important Congressional and public mention of the very low key way in which human rights were dealt with during the Shah's State visit. Even though the facts are not all in, the recent events in Tehran have made it clear to all of us that the Iranian Government is substantially increasing its use of force in dealing with political opposition. At least three University professors have been severely injured, one of them by uniformed police and two of them by thugs, under circumstances which throw great suspicion on the Iranian security forces. The apparent invasion of private property by armed and organized plain clothes forces and subsequent injuries and the evidence of government collusion in deliberately causing trouble, (according to our own Embassy reports) indicate the possibility that the tempo of these repressive measures will increase.

These events have not escaped international attention as you know and the reaction of abhorrence is increasing. In this climate, the official silences of the United States government, perceived everywhere as the Shah's closest supporter, is ever more deafening. This silence casts doubt on the President's commitment

~~SECRET~~
(GDS)

to the principle of advancement of human rights, not only in Iran but globally.

I hope you can agree with me that the time has come, as a minimum step, to instruct Bill Sullivan to bring our concern to the attention of the Iranian Government. These recent events damage its thus far successful moves to establish due process in court proceedings. The progress toward greater respect for fundamental human rights is jeopardized by the violence and the apparent attempts to suppress free expression of domestic criticism of the government's policies. I am not suggesting that our efforts be public; but, at least, if we begin by a low key and sincere approach at the Ambassadorial level we will have also begun to construct the foundation for later higher level and more public approaches should they become necessary.

Please therefore consider the possibility of sending the attached telegram to Ambassador Sullivan. Thanks.

P.S. There are strong rumors that the SAVAK forces infiltrated the anti-Shah contingents and sparked the D.C. violence. The Shah is not highly regarded by U.S. citizens and his position is eroding.

cc:D - Mr. W. Christopher (with enclosures)

Drafter: O Jones

~~SECRET~~

HA/HR:EOJONES:DIW
12/5/77 EXT:22741
HA:P.DERIAN

NEA:A.L.ATHERTON

PRIORITY TEHRAN

PRIORITY LONDON, CINCEUR

PD
EOJ
ALA

E.O. 11652: GDS

TAGS: SHUM

SUBJECT: RECENT POLITICALLY INSPIRED VIOLENCE IN IRAN

REFS: A. TEHRAN 10640, B. TEHRAN 10590, C. TEHRAN 10428, D. TEHRAN 10419, E. TEHRAN 10362, F. TEHRAN 10303, G. TEHRAN 9273, H. TEHRAN 10216, I. TEHRAN 10184, J. TEHRAN 10064, K. TEHRAN 9434

1. THE DEPARTMENT HAS BEEN INCREASINGLY DISTURBED BY REPORTS OF APPARENTLY GOI INSPIRED OR CONDONED VIOLENCE AGAINST OPPOSITION ELEMENTS AND PERSONS EMANATING FROM TEHRAN, BOTH FROM THE EXCELLENT REPORTING OF THE EMBASSY AND FROM NEWS AND PRIVATE REPORTS. COMING ON THE HEELS OF THE SHAH'S STATE VISIT TO WASHINGTON WITH THE ACCOMPANYING DEMONSTRATIONS HERE, THIS LATEST VIOLENCE IS PERCEIVED AS EVIDENCE OF THE SHAH'S INTENT TO RETREAT FROM HIS ENLIGHTENED STEPS OF THE PAST FEW MONTHS TOWARD IMPROVING HUMAN RIGHTS AND PERMITTING MORE POLITICAL DEBATE AND CRITICISM. WE ARE ALSO RECEIVING INCREASING CRITICAL COMMENT FROM THE AMERICAN PUBLIC AND CONGRESS THAT THIS ADMINISTRATION, WITH ITS COMMITMENT TO HUMAN RIGHTS, IS SEEMINGLY UNCONCERNED ABOUT THESE EVENTS AND IS UNWILLING TO MAKE ITSELF HEARD. WE

~~SECRET~~

ARE AWARE THAT THE FACTS ARE NOT ALL IN YET; NEVERTHELESS WE AGREE WITH EMBASSY REPORTING THAT THERE IS MORE THAN A LITTLE TRUTH TO THE ASSERTION THAT THE GOI HAS DECIDED THAT IT HAS MORE TO FEAR IN THE LONG RUN FROM PERMITTING OPEN POLITICAL DEBATE THAN FROM DOMESTIC AND INTERNATIONAL CRITICISM OF REPRESSIVE MEASURES.

2. YOU ARE THEREFORE INSTRUCTED TO SEEK AN EARLY APPOINTMENT WITH THE PRIME MINISTER. YOU SHOULD EXPRESS TO HIM THE INCREASING CONCERN OF THE UNITED STATES GOVERNMENT OVER REPORTS OF VIOLENCE IN TEHRAN INCLUDING SPECIFIC REFERENCE TO THE CASES OF HOMA NATEQ AND PROFESSOR MIRZAZADEH (TEHRAN 10419) AND TO REPORTS THAT THE IRANIAN GOVERNMENT SECURITY FORCES MAY HAVE BEEN INVOLVED CLANDESTINELY IN VIOLENT ATTACKS ON APPARENTLY PEACEFUL LITERARY AND POLITICAL GATHERINGS. YOU SHOULD FURTHER DRAW ATTENTION TO THE PROGRESS WHICH WE HAVE REPEATEDLY NOTED IN THE GOI'S IMPROVEMENT OF ITS HUMAN RIGHTS IMAGE ABROAD AND POINT OUT THAT REPORTS OF THESE LATEST EVENTS ARE HAVING AN INCREASINGLY ADVERSE EFFECT ON THE INTERNATIONAL REPUTATION IN THIS RESPECT OF THE GOVERNMENT OF IRAN. YOU MAY WISH TO INFORM HIM ALSO OF RUMORS IN WASHINGTON THAT SAVAK INFILTRATORS MAY HAVE DELIBERATELY INCITED IRANIAN STUDENTS BEFORE AND DURING RECENT INCIDENTS DURING SHAH'S STATE VISIT.

3. YOU SHOULD OFFER TO REPORT TO WASHINGTON ANY CLARIFICATIONS OF THE RECENT EVENTS WHICH THE GOI MAY WISH TO OFFER AND OUR HOPE THAT WE MIGHT CONTINUE OUR DIALOGUE ON THE SUBJECT OF HUMAN RIGHTS IN GENERAL. YOU SHOULD EMPHASIZE IN YOUR CONVERSATION THE IMPORTANCE WHICH THIS ADMINISTRATION, THE CONGRESS AND THE AMERICAN PUBLIC PLACE ON SUPPORTING THE INTERNATIONALLY ACCEPTED PRINCIPLES OF PROTECTION OF HUMAN RIGHTS EXPRESSED IN THE U.N. CHARTER, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE U.N. COVENANTS ON POLITICAL AND CIVIL RIGHTS AND SOCIAL AND CULTURAL RIGHTS.

YY

HUMAN RIGHTS

Our human rights policy has evoked wide popular enthusiasm and has done much to restore America's post-Vietnam, post-Watergate image around the world. Our enhanced credibility with black African leaders was obvious at the UN's anti-apartheid conference and at this year's General Assembly. Support for human rights was especially gratifying at the OAS General Assembly in Grenada last June. Some Italian Christian Democratic politicians have told us that because of the human rights policy it is "no longer embarrassing" domestically for them to be so closely identified with us. Dissidents in the Soviet Union whose own position may be more difficult in the near term because of our actions are nonetheless urging us to continue.

At the same time many government leaders remain wary or skeptical or both. Some approve in principle but wonder if American moralizing zeal will produce reactions which both make particular human rights situations worse, and heighten international tensions. Some still think we are more interested in scoring propaganda points against Communist states and enhancing our own image than in improving human rights conditions and, accordingly, that our policy is primarily a unilateral one. Some, conversely, perceive us as quick to criticize weak states of no great importance to our own security interests but tender with, for instance, Communist China or the Philippines. And some of course feel politically threatened by what we want from them.

These misgivings will never entirely disappear. But they are being mitigated somewhat by our efforts to work through international institutions such as the UN and the OAS, and by some specific human rights improvements. While we do not claim (or always deserve) full credit, our actions are widely perceived to have contributed to:

-- intensified attention to human rights problems; this means that it is not just US pressure being applied, but the pressure of world opinion;

-- the release of some political prisoners in more than a dozen countries with whom we have communicated our concerns. These include Iran, the Dominican Republic, Haiti, Thailand, and Nepal;

-- a lifting of the state of seige in El Salvador and Nicaragua;

-- agreement by Indonesia, Haiti, Guinea, and Iran to permit the International Red Cross Committee to inspect their jails;

-- agreement by Paraguay, El Salvador, Panama, and Haiti to permit the Inter-American Commission on Human Rights to undertake on-site investigations; (Paraguay's agreement is still confidential).

-- several more countries, including Iran, Togo, and the Philippines, giving non-governmental organizations such as Amnesty International, the International Commission of Jurists, and the International League for Human Rights access to study the human rights situation and make recommendations for improvements;

-- Peru, the Dominican Republic, Haiti, and Jamaica following our lead to sign the American Convention of Human Rights, for a total of 17; Haiti, Ecuador, Honduras, and Venezuela ratifying that accord, for a total of six;

-- Iran and Thailand opening trials of political prisoners for the first time; Argentina's agreeing to grant political prisoners the option of leaving the nation rather than remaining behind bars.

Of the non-European countries you are visiting, the human rights situation is best in Venezuela and India and weakest in Brazil and Iran. In Nigeria the situation has improved but is shakey and in Saudi Arabia, while human rights are open to arbitrary interference, little public international attention has been focused on any specific cases. The Europeans have a Court to which allegations of human rights violations are submitted and which has, for instance, castigated Britain's past treatment of prisoners in Northern Ireland. And the European Community recently adopted its own "code of conduct" for the treatment of black employees by European firms which operate in South Africa, and plans to ask those firms for yearly progress reports on what they have done to improve the employment and social conditions of their black employees.

NOTE: Names of countries where there have been human rights improvements are given for the President's background only. We advise against his mentioning them because there still are serious human rights violations in some of them (e.g., some 2,000 political prisoners remain in Iranian jails) and, perhaps even more important, because any indication that these or other countries have bowed to American will could make it harder for them to show further human rights progress.

~~CONFIDENTIAL~~

The Department of State

Statement

October 25, 1977
Washington, D.C.

Bureau of Public Affairs
Office of Media Services

Human Rights Policy Review

Mark L. Schneider, Deputy Assistant Secretary for Human Rights, before the House Committee on International Relations Subcommittee on International Organizations.

Mr. Chairman, I want to express my appreciation for the opportunity to review for the subcommittee the current stage of our human rights policy.

To a substantial degree, Mr. Chairman, you and your subcommittee have produced many of the recommendations for increasing the priority of human rights in our foreign policy. We share your commitment and value your criticism and your views on how best to make human rights a central tenet of our foreign policy.

That purpose was signaled in the Inaugural Address of the President. It has remained a key goal of the Administration as we have begun the task of instituting a far higher priority for human rights in foreign policy decisionmaking than in the past.

We have based our actions on our obligations under the U.N. Charter and other international commitments, on our responsibilities under domestic law, and on our belief that the people of this country want a foreign policy that is in accord with our values. We believe that a foreign policy that fails to reflect those values will not receive, nor deserve, the support of the American people.

To those who argue that our concern for the human rights of people in other lands constitutes intervention, we say look to the Charter of the United Nations, to the Universal Declaration on Human Rights, to the Helsinki Final Act, to the Declaration Against Torture, and to similar regional instruments and resolutions. No nation in the world today can hide torture, apartheid, arbitrary imprisonment, censorship, or other such violations of human rights behind assertions of sovereignty. The denial of internationally recognized human rights and fundamental freedoms is a matter of international concern.

As the Secretary of State and Deputy Secretary Christopher have emphasized, our definition of human rights rests on the U.N. Charter and those internationally recognized standards set forth, for example, in the Universal Declaration on Human Rights.

They include, without distinction as to race, sex, language, or religion, the right to be free from governmental violation of the integrity of the person, economic and social rights, and civil and political liberties.

In the first category of rights of the person, we include the right to freedom from torture; cruel, inhuman or degrading treatment or punishment; arbitrary arrest or imprisonment; denial of fair public trial; and invasion of the home.

The second involves the right to such vital needs as food, shelter, health care, and education. Our efforts are to promote greater attention by governments to these critical areas of development. Our concerns relate to governments which reject those rights by adopting policies which aim at further luxuries for a small elite at the expense of the vast majority of a nation's citizens.

The third set of rights involves civil and political liberties, those fundamental values which distinguish free societies—freedom of thought, of religion, of assembly, of speech, of the press; freedom of movement within and outside one's own country; and freedom to participate in government.

We seek to promote greater observance by all

governments of all these rights. They are interrelated and intertwined and spell out whether individuals can live in dignity. As the Deputy Secretary has stated, "It is, after all, these rights that make life worth living."

In attempting to assess where we are today, it seems worthwhile noting briefly where we began. Previously, human rights seemed to have a very low profile in the configuration of American foreign policy. The United States was identified by many people less with the protection of human rights than with regimes which had violated those rights.

We have traveled a considerable distance from that situation. Yet, we are still in the process of defining fully the strategy and tactics for carrying out this new policy.

Let me cite some of the steps we have taken—unilateral, bilateral, and multilateral—to fulfill that pledge.

First, with the encouragement of the Congress, we have restructured the Department of State's institutional attention to human rights, creating a separate Bureau of Human Rights and Humanitarian Affairs, providing it with staff and resources and access to decisionmaking. In addition, full-time human rights officers have been named in each of the bureaus, and the Department has made each Ambassador personally responsible for assuring that our human rights policy is understood, that we have continuing contacts with groups concerned with human rights in other countries, and that full information on human rights conditions is reported.

We have created an Inter-Agency Committee on Human Rights and Foreign Assistance. This committee reviews all aspects of our economic assistance relations with other nations, including our position on loans in international financial institutions, in light of our human rights objectives in particular countries. A special working group reports to that committee.

As part of the security assistance review process, covering both the budget and policy concerning specific weapons transfers, the Assistant Secretary for Human Rights and Humanitarian Affairs sits as a member of the Arms Export Control Board and the Security Assistance Advisory Group.

Second, every spokesperson for the Department and the Administration, from the President on down, has emphasized the importance of human rights factors in our foreign policy development.

We believe strongly, as President Carter stated in his address at Notre Dame, "that it is a mistake to undervalue the power of words and of the ideas that words embody. . . . In the life of the human spirit, words are action. . . ."

Third, we have undertaken diplomatic initiatives in innumerable countries urging the release of political prisoners, an end to states of seige which suspend constitutional due process protections, a return to the rule of law and the democratic process, an end to torture, and the enhancement of all human rights.

Fourth, we have halted or reduced security assistance programs and withheld commercial licenses for military equipment for armed forces in several countries which have engaged in serious human rights violations. No country can assume that it has a blank check to obtain arms from the United States, but especially those with serious human rights violations.

Fifth, we have examined our bilateral economic assistance programs with an eye toward insuring that they go to benefit people and not to strengthen the hold of repressive governments. We are hopeful of increasing the level of our assistance to the development of the world's poorest countries and its poorest people. But as Secretary Vance said at Grenada, "our cooperation in economic development must not be mocked by consistent patterns of gross violation of human rights."

This review involves overall budget levels to countries, decisions on the kinds of assistance that can be provided, and decisions not to go forward with certain programs. In some instances, it has meant a decrease in assistance to particular countries. Specifically, with regard to our bilateral programs, we have carried out demarches to a number of governments raising human rights concerns and delayed or reduced programs to others.

Sixth, we have taken initiatives in the international financial institutions to promote the cause of human rights. We have opposed or sought the reconsideration of loans to governments engaged in serious violations, although again we have attempted to give special consideration to loans going to benefit the needy. We have carried out demarches to more than a score of governments regarding human rights concerns in relation to loans within the international financial institutions.

In addition, we have abstained on seven loans. We also have told countries that we would oppose the loans if they were brought up for a vote.

Seventh, in the multilateral field, we have signed the American Convention on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic and Social Rights. In each instance, these international documents had remained without U.S. participation for nearly a decade. Also we have expressed our strong support for the ratification of the Genocide Convention and the Covenant Against Racial Discrimination.

Eighth, we have worked with many Latin American countries to strengthen the Inter-American Commission on Human Rights, and we hope to see a major increase in its funding and resources. Four countries in recent months have informed the Commission of a willingness to receive an inspection visit to assess the human rights conditions in those countries.

Ninth, in the United Nations, we are now seeking to promote greater international attention to human rights by joining with Venezuela and others in support of the Costa Rican proposal to create a U.N. high commissioner of human rights. We also are working with interested nations to see that steps are taken to add more force to the Declaration Against Torture adopted by the U.N. General Assembly in 1975. Torture stands with war crimes, genocide, and apartheid as a practice that debases civilized behavior.

Tenth, at Belgrade, we are playing a leadership role in assuring that there is full and clear discussion of the gap between current practices and the promise of the Helsinki Final Act. The Assistant Secretary for Human Rights and Humanitarian Affairs (Patricia M. Derian) was designated the State Department representative on the CSCE (Conference on Security and Cooperation in Europe) Commission chaired by Congressman Fascell, and she is a member of the Belgrade delegation.

Finally, we have sought to encourage, assist, and support those governments which have positive records and those which have taken clear and unequivocal steps—rather than cosmetic fabrications—to improve human rights in their countries.

These are some of the actions we have taken to implement the human rights policy. Let me repeat that we are at the beginning of that policy—not the end. We are determined that the policy will be vigorous and be reflected in all aspects of our foreign relations.

Mr. Chairman, you have asked what are the major accomplishments of the policy.

Let me preface my response by noting that in very few instances can we assume that our policy or our expressions of concern are the crucial factors that have or can produce change. A variety of forces are at work. Our policy is one of them.

Having said that, I would argue that our human rights policy has been a major contribution to the following developments:

- First, enhancing human rights is no longer a stranger to the front pages of newspapers across the globe. The message of our concern has gone to governments. It has gone to their citizens. It has reached out as well to the victims of repression. The broad dissemination of concern for human rights has been reflected in international public opinion, in seminars and conferences, and in a proliferation of publications and reports. This global attention is positive.

- Second, we are beginning to see governments weigh the costs of repression for the first time. For some months, many countries questioned whether the President truly intended to define human rights improvements as a significant interest of the United States. Most, particularly those with deplorable human rights records, are becoming believers. As they begin to assess the costs—in their relations with us, in their relations with other governments, and in their image in the world community—a positive process is set in motion.

- Third, our policy has helped to begin to change the image of the United States. For too long we had become identified with regimes which denied human rights, rather than with the victims whose rights were violated. Now I believe this new policy helps to return us to a position of leadership, one which is in conformity with a more traditional perception of the United States as a nation that received and welcomed two centuries of dissidents.

- Fourth, we can point to a series of changes in many different countries. We welcome them, but it is not our purpose to claim credit. It is simply too early to expect to see vast changes in the political

landscape in many countries. Nevertheless, we have seen the following:

—Some political prisoners have been released in more than a dozen countries with whom we have communicated our concerns.

—The state of siege was lifted in at least two countries.

—Four countries on four continents agreed recently to permit the International Red Cross Committee to inspect their jails.

—Four countries stated they will permit the Inter-American Commission on Human Rights to undertake onsite investigations.

—In the aftermath of our signing the American Convention on Human Rights, five countries now have ratified that accord, an increase of three, and 17 countries have signed, an increase of seven.

—In several countries, nongovernmental organizations such as Amnesty International, the International Commission of Jurists, and the International League for Human Rights have been given access to study the human rights situation and to make recommendations for improvements.

—In two countries, trials of political prisoners were opened for the first time. In one country, permission to allow prisoners to opt to leave the nation rather than remain behind bars was agreed to, although the extent of its use remains unclear.

How many of those events would have occurred in the absence of our policy or our contact with those governments is not known. Great caution must be exercised in attempting to assert that any of these events signify substantial change in the pattern of repression in particular countries. In virtually all instances, they are only a beginning; in some, they clearly are only cosmetic efforts to lessen external pressure. In none can we assume that violations of human rights are a thing of the past. We know that violations of internationally recognized human rights continue and that each day brings new victims in some part on the globe.

Nevertheless, we believe that we are on the right course, a course that conforms both to our own traditions and to international commitments. Seeking to achieve greater respect for human rights and democratic values is the course that we have been following. It is the course we intend to continue to follow. It also is a course that we hope others will choose to follow as well.

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LANDON BUTLER'S COMMENT

THE WHITE HOUSE

WASHINGTON

NOTE

Jack's memo gives you some general talking points on the subject of education.

Stu's memo provides you with CCSSO's positions on major education issues, and some suggested Q&A.

Rick

8:00 PM

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

January 10, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: JACK WATSON

SUBJECT: Meeting with State Education Commissioners
Wednesday, January 11, 1978 8:00 p.m. State Dining Room

As you requested, Joe Califano has invited the Chief State School Officers to come to Washington for a full briefing on the legislation and budget for education. The day's events will culminate with their meeting at the White House.

Joe has suggested the following agenda:

7:30 p.m. Chief State School officers and HEW officials arrive at the Southeast gate in two buses. Coffee is served in the main hall of the residence.

8:00 p.m. You arrive and stand with Joe to meet each commissioner as they leave the hall and enter the State Dining Room; the photographer will try to get individual pictures.

8:15 p.m. You go to the head table and convene the session by making brief remarks. Suggestions are attached; there will be no press coverage during any part of the meeting.

8:25 p.m. Joe makes a few brief remarks and opens the floor for questions.

8:30 p.m. Questions from the floor.

9:00 p.m. You adjourn the session at your convenience.

Sitting with you at the head table will be Joe, Hale Champion, Commissioner Ernie Boyer, Assistant Secretary Mary Berry, President of the Chief State School Officers Organization Dan Taylor, and Executive Director of the organization Byron Hansford.

Attachment

EIZENSTAT MEMO

THE WHITE HOUSE

WASHINGTON

January 10, 1978

MEETING WITH CHIEF STATE SCHOOL OFFICERS

Wednesday, January 11, 1978
8:00 p.m.
State Dining Room

From: Stu Eizenstat Stu

I. PURPOSE

At the HEW briefing of elementary and secondary education proposals you indicated your interest in meeting with the state superintendents of instruction to discuss those proposals.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

HEW plans to meet with the chiefs at 5:00 p.m. At that time, Secretary Califano will discuss in detail the tentative HEW legislative proposals and current executive initiatives in education.

HEW expects to have some final proposals to OMB by the end of January at the latest. They have begun informal discussions with key Congressional committees and plan to work closely with them. The HEW proposals have not been received in a final form for clearance from OMB or DPS. With OMB we have begun a series of meetings with HEW to clarify issues and identify problems with the HEW proposals.

The Council of Chief State School Officers (CCSSO) is an independent organization of state superintendents and commissioners of education. Through member consensus, CCSSO expresses its views on state and federal policies. (Attachment #A for information on CCSSO and list of participants.)

CCSSO's general position on all education legislation is to increase the state role. CCSSO favors mandatory state involvement for all federal education programs.

HEW LEGISLATION PROPOSAL AND CCSSO LIKELY POSITION

Administration's overarching concerns for Elementary and Secondary Education:

- The basic literacy required to function in our society
- Preparation for jobs, and
- Preparation for further education.

(Attachment #B summarizes detailed HEW proposals and CCSSO likely position.)

A. HEW Proposals for Title I

HEW proposes no change in the current basic Title I program.

1. Concentration provision for high poverty districts.

Proposal targets additional funds for compensatory education with at least 5,000 or 20% poor children. Two-thirds of the money will go to urban areas.

CCSSO will support the concentration provision.

2. Matching Incentive for State Compensatory Programs.

Proposal matches one federal dollar for every two state dollars and awards up to an additional ten percent of state's Title I funds. The aim is to encourage states without compensatory programs to create them.

CCSSO will support this proposal, especially if it allows greater flexibility than the basic Title I program.

3. Ease Title I Eligibility Criteria for Schools with High Poverty Concentration.

For districts in which the combined federal and state compensatory funds exceed 80% of the Title I entitlement, the school district can increase the number of eligible schools.

CCSSO has no position. The proposal affects local school programs only.

4. Allow Flexible Use of State Compensatory Funds.

In districts where combined federal and state compensatory funds exceed 100% of Title I entitlement, additional state compensatory funds may be allocated to non-Title I schools.

CCSSO will support this proposal.

5. New Discretionary Demonstration Project Grants

The proposal creates demonstration program which merge the Follow-through program and which provides competitive grants for quality education through state education offices.

CCSSO will support this proposal.

6. School-wide Use of Title I Funds

Proposal allows schools to educate all students where 80% of the students are Title I eligible.

CCSSO will support this. Proposal does not impact of state education office.

7. Expand State Role in Monitoring and Enforcement.

Proposal establishes state role in comprehensive monitoring and enforcement of Title I policy. It also provides additional funds to states to increase administrative operations.

CCSSO will support this proposal.

B. Proposal for Bilingual Education

HEW proposal retains current definition of program as transition language program, expands research and development of bicultural projects, increases teacher training, and phases out current projects with states picking up cost of programs.

CCSSO will agree with proposal in principle. They feel that state plans should be required for bilingual education programs. CCSSO may not support state pick-up of cost because of concern over revenues to support federal programs, also because of feeling the Federal government is telling them how to spend state money.

C. Proposal for Adult Education

Proposal expands emphasis on functional literacy and restores research, demonstration and evaluation programs. It also expands participants to include community colleges, community action groups, businesses and schools.

CCSSO has no position. This affects local districts.

D. Proposal for Emergeny School Aid Act (ESAA)

HEW proposes to emphasize Northern desegregation problems by changing state apportionment requirements. It also proposes advance planning grants, matching state grants, and planning for metropolitan desegregation.

CCSSO has no formal position on this. This is a regional issue. CCSSO supports adding follow-the-child provision to Title I, instead of being in ESAA. Under current ESAA, when Title I children are moved to non-Title I schools because of desegregation, Title I support follows the child to the new school for one year. These funds are used for compensatory education services. CCSSO favors moving this to Title I because more funds are available in Title I and because they think that is more appropriate place for it, assuming proper safeguards for desegregating districts.

E. Proposal for Education Quality Act

The proposal consolidates the current Special Projects Act with other education programs. CCSSO strongly supports consolidation of the Special Projects Act with ESEA Title IV, Part C, which provides funds to innovate local school programs and to strengthen planning at state and local levels.

Title IV, Part B provides for funds for development of educational materials and school counselors. CCSSO supports removing funds for school counselors from Title IV, Part B. No Administration position has been developed for ESEA-Title IV - State Programs.

F. Impact Aid

HEW proposal includes eliminating public housing children from Impact Aid with a two year hold-harmless provision.

CCSSO will have reservations about eliminating public housing children. They have proposed: (a) using public housing funds for general aid, like all Impact Aid money or (b) providing allowance to states for cost of overseeing the program. (Under current law, public housing money in Impact Aid is used for Title I - type programs.) This issue is of greatest interest to states with major cities.

ADDITIONAL ISSUES OF IMPORTANCE TO CCSSO

1. Creation of a Separate Department of Education

As a member of "The Big Six," which includes NEA, CCSSO strongly supports creation of a separate Department of Education.

Suggested reply: We are finalizing recommendations on this issue, I shall make announcement (a) Thursday, January 12, 1978, Press Conference, or (b) in the State of the Union Address.

2. Teacher Center

Teacher Centers are new federal staff development programs to be designed and operated by teachers. Administrators generally are concerned about their lack of involvement in shaping the centers. CCSSO wants mandatory state plans for Teacher Centers. They believe that comprehensive state plans for staff development should be used to determine which Teacher Centers will be funded.

Suggested reply: This is a new program. Ask Secretary Califano to work with them to insure the success of the teacher centers.

3. Multi-Year Applications

CCSSO and all of the education community supports multi-year funding for ESEA - Title I programs. Under current law, local school districts and state education agencies complete lengthy annual applications.

Suggested reply: HEW proposes multi-year plans for Title I to reduce paperwork burden on states.

4. Education for All Handicapped Children Law (P.L. 94-142)

CCSSO favors special grants ($100 million) for barrier removal under P.L. 94-142, Section 504. The grants would also be used to bring schools into compliance with Section 504 Regulations.

Suggested reply: In FY 1979, we shall propose funds for direct guaranteed loans for higher education structural modification.

CCSSO would support legislation to increase Federal contribution to this program and lower program requirements; i.e., Individualized Education Plans, due process, and

Fall 1978 as date for full service to all handicapped children.

Suggested reply: Congress will not entertain amendments at this time. HEW is evaluating P.L. 94-142 first year operation of the law. Their insights are desired.

5. Energy Bill

CCSSO supports your energy bill. They are concerned that authorization of funds for energy conservation in schools and hospitals proceed in time for Fall 1978 school opening. Summer is the best time to renovate schools.

Suggested reply: We want to keep bill intact. Will get it through Congress with their help.

6. Paperwork Reduction

CCSSO has completed a lengthy study for Congressman Perkins, Chairman of the House Education and Labor Committee, on reducing paperwork.

Suggested reply: We are studying CCSSO recommendations.

7. Tuition Tax Credits

CCSSO opposes tuition tax credits. The Senate will hold hearings on tuition tax credits (Packwood/Moynihan Bill) next week.

Suggested reply: The Administration will testify against the Bill. HEW will introduce proposals to aid middle income parents send their children to college, through increased access to college work-study, student aid grants, and long-term loans.

8. Youth Employment

Under new law, 22% of the youth employment training funds go to local schools. CCSSO wants state education agencies to be required to offer technical assistance to local schools, with funds to compensate for such service.

Suggested reply: We will study their paper.

9. Competency-Based Testing

CCSSO wants the Federal government to offer the states technical assistance in test development and standards. CCSSO opposes a Federal testing program.

Suggested reply: HEW has been asked to study this issue along with the National Science Foundation. We support use of tests with safeguards protecting educational opportunities of low-income students.

10. Fiscal Year 1979 Education Budget

An internal HEW budget document was published in the education press about four weeks ago. Because of the funding levels in this document, CCSSO and the education community are anxious about the FY 1979 proposals. They will want to know if major cuts are planned in the Education Budget.

Suggested reply: You will announce in the State of the Union Address substantial increases in Education Division budget over the 1978 level. Most of increase will go for education of disadvantaged, handicapped children, and college student aid.

The budget includes over $1 billion in new monies for federal education programs. This is 11% more than the 1978 approved budget. The Title I Program will be increased by $.7 billion dollars. In 1979 we propose to contribute 8% of the total cost of instruction in elementary and secondary schools.

A

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Executive Director
BYRON W. HANSFORD
1201 16th Street, N.W.
Washington, D.C. 20036

COUNCIL OF CHIEF STATE SCHOOL OFFICERS
HISTORY AND PURPOSE

The Council of Chief State School Officers is comprised of the superintendents and commissioners of education in the fifty states and six extra-state jurisdictions (American Samoa, Canal Zone, Guam, Puerto Rico, Trust Territory of the Pacific Islands, Virgin Islands), and has functioned as an independent national council since 1927.

The Council Office in Washington is very small and low budget, including an Executive Secretary, Byron Hansford, and one full time lobbyist, John Adams, and an assistant. The support from the States is meager (about $200,000) and that is paid mostly out of Federal ESEA Title IV C funds received by the State Education Agencies (SEAs). The Council budget is supplemented by about an equal amount of direct Federal funds to the Council for special projects conducted by the Washington Office.

J. Equal Opportunity

Access for all to equal education opportunity is both a legal and moral responsibility of the educational system.

The Council believes that this access can be facilitated by assuring:

1. *Right to Due Process*
Because individual rights guaranteed by the Constitution must be recognized and protected, each state is urged to assure the equitable provision of due process for all to protect those rights.

2. *School Desegregation*
Since desegregation carried out with integrity and with adequate human and financial resources enhances the educational opportunities for all youth, the Council supports all viable means of providing quality education for every student, including the use of busing where appropriate.

3. *Affirmative Action in Employment*
State and local education agencies are encouraged to adopt affirmative action programs to place increased numbers of qualified women and minorities in positions of responsibility.

10. *Health Education*

Improving the nation's health depends on further investment in prevention more than increasing expenditures for hospital care and treatment. It is important that the education system strongly supports good health care, preventative programs such as nutrition, immunization, and developmental programs that demonstrate national as well as individual benefits of good physical and mental health.

The Council urges federal and state support for comprehensive health education programs in elementary and secondary schools.

The Council asserts that comprehensive health education and preparation for lifetime physical and recreational activities are desirable. The schools should reach out to other health organizations and community agencies for help in health and family life education, in counseling families and in treating or preventing mental health problems. The causes, prevention and cures of national health problems including drug and alcohol abuse, malnutrition and venereal disease should be stressed.

Parental Participation

The Council recognizes the necessity and value of the home and parent participation in the schooling process of children. Parents should be involved in meaningful ways such as developing positive attitudes, desirable work and study habits, career development, and assisting in reading which is basic to all learning.

1. *Basic Skills*

The Council believes that mastery of the basic skills is a critical prerequisite to the attainment of subsequent knowledge and to a capacity to perform adequately in our complex society.

Reading and communication skills, arithmetic skills, together with critical and logical thinking remain the basic ingredients of education and should be the first priority of boards of education. Federal, state, and local resources should reflect this priority.

A. Competency-Based Education

Competencies mastered by students are as important as the accumulation of credits, diplomas or degrees. While these traditional measures of achievement represent one indicator of competence, they should not be considered conclusive or all inclusive. The identification and definition of appropriate competencies and the methodologies leading to them are difficult.

The Council urges state education agencies to accelerate the process toward (1) defining relevant competencies, (2) improving methods to attain and measure competencies, and (3) granting appropriate educational equivalency credits.

Accountability, Testing

The Council believes that the primary purpose of accountability is to strengthen and improve the educational process. It urges adoption of a set of goals which will serve as a foundation upon which all other phases of assessment, planning, budgeting, and evaluation can be built. The Council supports the development of a practical, economical, and controllable system of obtaining reliable data on student achievement which will lead to establishing viable goals in improving education.

A. Establishing Goals for Publication Education in the United States

Goals for publication education in the United States should result from the combined efforts of major groups concerned with American education. As the decade of the 1980's approaches, the Council considers a review and assessment of current goals and the restatement or revision of goals and objectives to be important.

The Council will initiate with other national organizations a study of the need for a National Commission on Educational Goals and Priorities which would make a report for the guidance of the Congress, the President and agencies of the executive branch of the federal government. Through this study the Council will determine whether such a Commission should be established and if so, its charge, composition and timetable for a report.

B. Establishment of a U.S. Department of Education

Education does not currently receive adequate policy consideration in the federal executive branch, and the federal contribution to education revenues is inadequate.

The Council believes a Federal Department of Education should be established, headed by a cabinet-level secretary, in order to affirm the highest national priority for the education of all persons.

E. National Institute of Education

The Council recognizes the increased cooperation between the National Institute of Education and state education agencies, demonstrated by more NIE effort directed toward SEA program involvement.

The Council encourages NIE to continue to recognize the unique position of the state education agency in its legal and leadership role in supervising the educational process and further encourages NIE to provide opportunity for state education agency involvement in NIE planning processes. The Council encourages NIE to assist SEAs in sensing information and research needs, in developing improved educational programs, and in building dissemination capacity including linkages to LEAs. The Council encourages a continuing dialog between NIE and the Council's research, development, and dissemination committee as NIE and SEA programs are developed.

PLATFORM

As the chief educational officers of our various states, and more important as citizens of the United States, the Council of Chief State School Officers believes:

1. Effective participation in American democracy requires public education to be classless in every respect and based on the needs of all citizens. Thus, the greatest possible scope and quality of educational opportunity for citizens of all ages should be established.

2. A literate and thoughtful citizenry is the key to the achievement of national ideals. Such a citizenry must be guaranteed by preserving and improving the system of free public education.

3. Values underlying American democracy and its pluralistic cultural heritage are vitally important to the preservation of the Republic and can only be achieved through the systematic education of all the people.

4. Each level of government has appropriate roles and responsibilities which are complementary to one another, and each level of government must provide strong leadership in its educational endeavors. While states and localities pay the major costs of public education, the federal government should provide its proportional share in the financial support of education.

5. Special national educational priorities should be defined from time to time by the executive and legislative branches of the federal government, and the achievement of these goals should be accomplished partly through federally financed programs. The United States Office of Education should provide flexible guidelines for such programs with appropriate alternatives for the states to exercise a cooperative approach with local districts. Furthermore, all federal funds above and beyond the funding of major priority categorical programs should be in the form of general financial support or revenue sharing to state education agencies.

6. New, creative and viable educational programs should be initiated and maintained on the basis of the perceived and expressed needs of society at the local, state and national levels, with educational decision-making involving the widest possible lay participation.

7. A wide range of lifelong educational opportunities must be made available to all citizens of this nation so that the fundamental rights and responsibilities of free choice may be learned and exercised with regard to each individual's future. The schools must be committed to educating each student, looking beyond any traditional limitations on student and school capability.

8. Each segment of the government vested with educational responsibilities should remain accountable to the citizens as consumers and financial supporters of its efforts.

C. Parent Education

The Council supports the expansion of programs for parents, especially for school age parents, and their children while encouraging state education agencies to take a leadership role in helping schools meet the needs of school-age parents. The needs of families demand a coordinated approach to health, education, and welfare services, focusing on simplified procedures for access, reporting, individualized programming, and counseling. Programs should provide opportunities for involvement of the entire family—mother, father, and child—and should emphasize vocational/academic training, family and career counseling, and child care and parent education. Family participation in the center setting under the guidance of qualified early childhood and parent educators is advocated.

Federal, state, and local agencies should develop procedures for joint funding and reporting which will encourage young families to participate in the programs on a consistent basis. In addition to a regular child care component, group eligibility for all services and benefits available to some under provisions of various health and social service legislation should be included in comprehensive programs.

F. Urban Education

Chief state school officers are committed to achieving and maintaining high quality education in the schools of the major cities. Language and cultural barriers, changing employment patterns, poverty and city fiscal problems challenge state education agencies.

The Council believes that chief state school officers should designate state education agency staff and resources, attempt new programs and seek additional state and federal funds to aid city schools.

G. Rural Education

Schools in rural areas face problems associated with distance, sparse population, poverty and staffing.

The Council believes that chief state school officers should designate state education agency staff and resources, attempt new programs and organization, utilize all available technology, and seek additional state and federal funds to aid rural schools.

B

CHIEF STATE SCHOOL OFFICERS AND DEPARTMENT'S 1978 LEGISLATIVE PROGRAM IN EDUCATION

HEW Proposal	Chief State School Officers Likely Response
Title I Program Changes	
o Concentration Provision - adding new part to target supplemental funds on school districts with large numbers or percentage of poverty children.	o Support - Longstanding policy requests greater aid for urban and rural poverty areas. No threat posed to any State's basic allocation.
o Match for State Compensatory Programs - to encourage States to develop programs that are narrowly targeted on educationally or financially deprived children. - match one Federal dollar for every two qualifying State dollars.	o Support, with request that requirements to target on poverty be less than in basic Title I program.
o Demonstration Project Grants to States - for development and evaluation of exemplary programs in local districts. - State technical assistance. - discretionary 20% for Commissioner to assist States. - folds in Follow Through.	o Support - will be seen as strengthening State administration.

CHIEF STATE SCHOOL OFFICERS AND DEPARTMENT'S 1978 LEGISLATIVE PROGRAM IN EDUCATION

HEW Proposal	Chief State School Officers Likely Response
Title I (continued)	
o Program Quality Changes	
- neutral posture on pull outs vs. mainstreaming and publication of model programs.	o Support - increases State and local flexibility.
- upgrade total schools when above 80% poverty eligibility.	o Support - increases State and local flexibility.
- assurances of teacher and parent involvement in planning.	o Oppose--policies of CCSSO request fewer PACs.
o Title I Administration	
- multi-year applications for State and localities.	o Support - reduce paperwork.
- expanded State role in monitoring and enforcement.	o Support - increased State role.
- increase administrative set-aside for expanded State administrative work plan.	o Support - additional funds.
- improve Federal auditing process.	o Applaud - historic complaints on inconsistent audits.
- establish more realistic fund recovery and withholding procedures.	o Support - current process lengthy and politically unworkable.
- no change in comparability requirements.	o Oppose as excessive Federal control.

CHIEF STATE SCHOOL OFFICERS AND DEPARTMENT'S 1978 LEGISLATIVE PROGRAM IN EDUCATION

HEW Proposal	Chief State School Officers Likely Response
Impact Aid	
o Changes in eligibility, absorption, local contribution rates, and public housing.	o Little interest, since not a State-run program, except Northeast States will want to retain public housing. Major State interest is allowing more State discounting of Impact Aid in State aid plans; we propose no immediate change.
Bilingual Education	
o Time-limited Federal funding (transitions to State/local funding, and ability to shift and target Federal dollars).	Indifferent, except request for more State coordination of Federal funds and differential treatment of States with advanced programs.
o More research funding.	
o Emphasis on teaching neediest non-English speaking students.	
o No increase in State role.	
Emergency School Aid	
o Cap State apportionment and increase Federal discretion to target to areas of new desegregation.	o South oppose, North and West support.
o Provide advance planning grants to districts.	o Support.
o Provide matching grants for State support for desegregating districts.	o Support.
o Planning grants for metropolitan desegregation.	o Suspicion. Probably unable to respond as an organization.

FALLOWS TALKING POINTS

THE WHITE HOUSE

WASHINGTON

January 11, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: JIM FALLOWS, ACHSAH NESMITH

SUBJECT: Council of Chief State School Officers

Roughly half of this group of 53 is elected, half appointed. Some have come from as far away as Guam. Stu Eizenstat feels you may want to mention some of the following by name: Dan Taylor of West Virginia, the new president; Vice President John Porter of Michigan, who is also the outgoing president we have been working with; Craig Phillips of North Carolina, president-elect; and Byron Hansford, executive secretary; or your appointments in education: Assistant Secretary Berry, Commissioner Boyer, Director Graham.

We felt it was very important to include not only a list of your programs and policies, but an overall view of your attitude and concerns about education. Giving this overview of your concerns and goals for education should help counteract the tendency of the press to report many of our announcements merely as responses to pressure from special interests, rather than as logical, considered and correct responses to national needs. Their attitude, and that of all people concerned with education, toward our programs will be affected by their perceptions of your concern and understanding of their problems as well as about the specific programs.

# # #

Nesmith
1/11/78

REMARKS TO STATE COMMISSIONERS OF EDUCATION

As a society we have made a lot of progress toward achieving Thomas Jefferson's dream of education for all our people. We are in the process of extending educational opportunities to the last groups in our society who have been denied access -- the mentally and physically handicapped.

I wish I could say, too, that at last we are providing all of our people with the basic skills they need not only to make a good living, but to make a good life. But we aren't. That's why my Administration is emphasizing basic skills. The budget we will announce in a couple of weeks will include:

-- an 11 per cent overall increase for education, primarily in the basic skills.

-- Title I funds (which go to help disadvantaged elementary and secondary students bring up basic skills) will be three-quarters of a billion dollars higher in our 1979 budget proposal than they were in the 1977 budget.

-- Headstart funds will be almost 50 per cent higher than fiscal 1977 levels.

-- substantial increases among the 44 other programs spread throughout the Federal government that are aimed at improving basic skills.

I intend to honor my commitment to establish a new Department of Education. I will be making an announcement

on the subject soon. I have asked Joe Califano, the Vice President and Jim McIntyre's reorganization staff to work closely with the Congress, with you and other interested groups to determine the best way to structure the new department. We appreciate your letter on the subject and your meeting with the reorganization team to assist in the planning. We will be calling on you for additional help.

As an interim step, Secretary Califano will develop a proposal to reorganize the Education Division in a way that will smooth the creation of a new department while at the same time permitting him to move on Administration initiatives. These will include:

-- a new thrust to insure that elementary and secondary students achieve basic skills.

-- assistance to middle income families for college expenses.

-- a testing initiative to complement the quest for basic skill achievement.

-- sharply curtailing abuse and fraud, especially in student loan programs.

-- reducing paperwork and forging a new state-Federal partnership in education.

-- reaffirming the Federal government's commitment to access and equal education.

I mentioned our intention to help middle income families with college tuition. We prefer direct funding of programs to aid lower and middle income families in distress rather

than blanket tax credits that cover people who don't really need help. The tax system is not the ideal vehicle for carrying out education policy, and we don't want to see the public schools weakened by draining off their funds. There are also serious constitutional questions in regard to such tax credits for elementary and secondary school tuition.

We are aware of the important role of the states in planning Federal educational policy. That is why you are here tonight, to give us your views on proposals while there is still time to affect them.

You face serious problems. Levels of student achievement as measured by scholastic aptitude tests show overall declines. It is not enough to acknowledge that learning difficulties are frequently symptoms of multiple problems of the family and community environments. We must find ways to create an environment, both in our schools and in our communities, that fire the curiosity and stimulates the desire for knowledge in our young people.

Maybe it would be easier if we were not facing financial difficulties at the same time, along with declining enrollments. But declining enrollments can mean the opportunity to concentrate on educational quality instead of struggling to keep up with student population growth. Facilities that have long ceased to meet your needs can be retired. Even financial constraints can serve to make us take a hard look at what we are doing and why, to cut away less effective programs and to concentrate our efforts on what really counts.

I believe in the public school system because it is our primary weapon against ignorance and lack of opportunity in this country. And I believe we can do a better job. I don't believe we have to sacrifice standards and make school attendance meaningless to include those who have been excluded in the past. I don't believe our brightest, best brains must be wasted because we have recognized our responsibility to help those who are slower or have special problems.

I remember the excitement of the world that books opened up to me when I was a small boy living on an isolated farm. I remember the pleasure of discovering art and music and science and poetry. I want every American child to share that pleasure and excitement. I want schools we can be proud of, and I want to help you create that kind of school. There are hard choices and crucial decisions ahead of us. Many of them you will have to make. All Americans, for generations to come, will have to live with the success or failure of our efforts.

# # #

THE WHITE HOUSE
WASHINGTON

rick-

as discussed

--ssc

not submitted - Fallows wrote today's piece instead

SUGGESTED TALKING POINTS/RESPONSES TO QUESTIONS

Whether or not you intend to make a formal statement to this group regarding a Department of Education, you will very likely be asked a question on the subject. If you do decide to make a statement, the following background points would be appropriate:

We can be proud of many of the accomplishments of our nation's education systems:

- °Access to equal educational opportunities has expanded significantly.

- °Our investment in compensatory education programs has resulted in measurable improvements, particularly among elementary and preschool children.

- °The special education needs of the mentally and physically handicapped are being met more effectively through substantial public and private efforts.

- °Our education institutions are at the heart of the innovation and knowledge building so essential to progress and productivity.

But, a creative combination of basic skill development and new approaches to learning will be required to meet the challenges associated with education:

- °The knowledge and basic skills of many young people and adults are not appropriate to available employment opportunities.

- °Levels of student achievement as measured by scholastic aptitude tests have been declining.

- °Learning difficulties are frequently symptomatic of multiple problems viewed in the context of family and community environments.

- °Many schools are facing financial difficulties and declining school enrollments.

In view of these accomplishments and challenges, I believe that the Federal structure for education related programs should provide a base for strong and creative national leadership.

The following points relate specifically to the subject of a new department:

- °I intend to keep the commitment I made during the campaign to establish a new department which would bring together a broad range of education related programs from across the Federal government.

- °I have asked Secretary Califano, the Vice President and Jim McIntyre's reorganization project staff to work closely with the Congress to determine the best way to structure a new department. We will be consulting with you and other interested groups to get your views.

- °The hearings that Senator Ribicoff plans this spring will provide a good forum for public debate and discussion.

- °As an interim step, Secretary Califano will develop a proposal to reorganize the Education Division in a way that is consistent with the creation of a new department.

I think it is important that your remarks reflect Joe's undiminished role as your chief advisor and spokesman on education issues. The education community needs to understand that you have strong and unequivocal support for Joe's leadership in advancing the Administration's education policy initiatives, some of which are:

- °assistance to middle income families for college expenses;

- °a new thrust to ensure that elementary and secondary students achieve basic skills;

- °a testing initiative to complement the quest for basic skill achievement;

- °establishing linkages between schools and parents; employment and social services;

- °managing the education dollar to curtail sharply fraud and abuse, especially in the student loan program;

- °reducing paperwork and forging a new federal/state partnership in education; and

- °reaffirming the federal government's commitment to access and equal education opportunity.

9:00

THE WHITE HOUSE
WASHINGTON

January 11, 1978

Bob Lipshutz

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Stu Eizenstat
Jim McIntyre
Tim Kraft
Fran Voorde

RE: TELLICO DAM LITIGATION -- MEETING WITH ATTORNEY GENERAL

THE WHITE HOUSE

WASHINGTON

	FOR STAFFING
	FOR INFORMATION
✓	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
	✓	EIZENSTAT
		JORDAN
✓		LIPSHUTZ
		MOORE
		POWELL
		WATSON
	✓	McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
		GAMMILL

✓	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
✓	VOORDE
	WARREN

THE WHITE HOUSE

WASHINGTON

Bob - ok. I'll meet c AG, & should have been given his memo J

January 11, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: Bob Lipshutz BL

SUBJECT: Tellico Dam Litigation

Attached is a memorandum from the Attorney General regarding this matter. As set out, this is the matter on which you made a decision to our earlier memorandum of January 9.

Because of the strong feeling which the Attorney General and others in the Justice Department have concerning this case, I recommend that you meet with the Attorney General as requested, and preferably within the next day or so. It might be desirable for both Stu and me to sit in on the meeting with the hope that all differences can be resolved at that time.

Concerning the memorandum from the Attorney General, I wish to emphasize that the decision in this case as to the position of the government is a judgement of policy and not a judgement of law. The law is not settled or definitive at this time; for example, the Solicitor General himself (who has disqualified himself because of prior involvement in a case while he was on the bench) actually ruled against the position which would be argued for the TVA, when the Solicitor was a member of the Circuit Court of Appeals.

The important policy questions which are involved in this case were set out in the January 9 memorandum to you. When the Solicitor's office decided to represent the position of TVA in this case, it did so without consulting with the OMB or the White House staff. As stated in the earlier memorandum, OMB and Stu and I strongly oppose this position because of the policy implications set out in the earlier memo. Interior Department also opposes this position, but it was in fact consulted by the Solicitor's office prior to the decision having been made; Interior Department still opposes representing the TVA's side in the case.

It is regrettable that the Solicitor's office might be embarrassed should it "change sides" at this stage of the proceedings. However, it might be more regrettable if it continued to take this side and thereby undermine Administration policies in doing so. In my judgement, all parties would be better served to admit whatever errors might have been made at this stage of the proceedings and proceed on the basis of the current best judgement.

ATTORNEY GENERAL'S
MEMO

Office of the Attorney General
Washington, D. C. 20530

January 10, 1978

MEMORANDUM FOR THE PRESIDENT

Re: Tellico Dam Litigation

I have been advised that you have reviewed an options paper on the Tellico Dam litigation and have indicated a preference for an option that would entail an instruction that the Department of Justice withdraw its representation of TVA and, instead, file a brief on behalf of the Government taking a position at odds with TVA's present position. Attached is my memorandum on this matter that was prepared and delivered prior to your review of this question. Although I anticipated that you would see this memorandum in advance, I now understand that it was not brought to your attention.

In order that the views expressed in my underlying memorandum can be fully considered, I have asked the Solicitor General's Office to seek a one-week extension delaying the deadline for filing the Government's brief until January 19. I would appreciate an opportunity to meet with you about this matter.

Griffin B. Bell
Attorney General

Attachment

Office of the Attorney General
Washington, D. C. 20530

MEMORANDUM FOR THE PRESIDENT

Re: Tellico Dam Litigation

It is my recommendation that the Office of the Solicitor General be permitted to proceed with the filing of its brief on behalf of TVA in the Supreme Court. Following are the five factors which draw me to that conclusion.

First, by filing the petition requesting review, the Department of Justice has taken before the Supreme Court a position on the legal merits of this controversy. A reversal of that position, coming at this juncture, would not but undermine the respect traditionally accorded the Department and the Office of the Solicitor General by the Justices on the Court. Second, a reversal of position on the case could well be publicly perceived as the Administration imposing its policy views on the Justice Department despite the Department's contrary judgment on the law. Given the difficulty of the legal question, a reversal certainly would not necessarily bespeak of a victory of policy over law, but such a public reaction must be anticipated. Third, I have been informed that the position argued in the SG Office's brief is narrowly structured and does not urge upon the Court the proposition that substantive legislation can be easily amended or abrogated by the simple expedient of tucking away a few critical words in an obscure appropriations committee report. Fourth, I have been advised by my Office of Legal Counsel that if the Government files a brief opposing TVA (rather than directing TVA to withdraw from the case) there may no longer be a sufficient controversy for the Court to hear within its constitutional jurisdiction. That is, the question might well be asked by the Court why TVA is being allowed to pursue the appeal if the "Government" has decided that it agrees with the respondent. Fifth, the option I have recommended

would still permit a full and fair statement of the contrary legal views of the Department of Interior, thus exposing in what I regard as an open and healthy manner the intensity of debate within the Administration.

One final procedural point needs to be made. In view of the fact that the Office of the Solicitor General has already taken a position on the merits in the Supreme Court, the Acting Solicitor General will not be in a position to file any subsequent brief before the Supreme Court taking a contrary view. Therefore, any future filing will necessarily be made under my signature--a procedure that the Justices and all others familiar with the Court will know to be extraordinary. Finally, because of the necessity of candor in dealing with the Court, it will be necessary for the Department of Justice to advise the Court in writing of the reason for its withdrawal from TVA's representation.

Griffin B. Bell

Griffin B. Bell
Attorney General

ID 780080

THE WHITE HOUSE

WASHINGTON

DATE: JAN 11 78

FOR ACTION: BOB LIPSHUTZ TIM KRAFT

INFO ONLY: THE VICE PRESIDENT JODY POWELL

STU EIZENSTAT JIM MCINTYRE

FROM: RICK HUTCHESON WHITE HOUSE STAFF SECRETARY PHONE 456-7052

SUBJECT ATTORNEY GENERAL MEMO DATED 1/10/78 RE TELLICO DAM LITIGATION

RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY

BY JAN 11 78

ACTION REQUESTED: IMMEDIATE TURNAROUND IS REQUESTED

STAFF RESPONSE: ( ) I CONCUR. ( ) NO COMMENT. ( ) HOLD; DO NOT FORWARD.

PLEASE NOTE OTHER COMMENTS BELOW:

already in + out

THE WHITE HOUSE
WASHINGTON

/	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
/	IMMEDIATE TURNAROUND

ACTION	FYI	
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		JORDAN
/		LIPSHUTZ
		MOORE
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		WATSON
	/	McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
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/		KRAFT
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		POSTON
		PRESS
		SCHLESINGER
		SCHNEIDERS
		STRAUSS
		VOORDE
		WARREN

Office of the Attorney General
Washington, D. C. 20530

January 10, 1978

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would still permit a full and fair statement of the contrary legal views of the Department of Interior, thus exposing in what I regard as an open and healthy manner the intensity of debate within the Administration.

One final procedural point needs to be made. In view of the fact that the Office of the Solicitor General has already taken a position on the merits in the Supreme Court, the Acting Solicitor General will not be in a position to file any subsequent brief before the Supreme Court taking a contrary view. Therefore, any future filing will necessarily be made under my signature--a procedure that the Justices and all others familiar with the Court will know to be extraordinary. Finally, because of the necessity of candor in dealing with the Court, it will be necessary for the Department of Justice to advise the Court in writing of the reason for its withdrawal from TVA's representation.

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Attorney General