Justice (cc NSC)

Thursday 10/9/75

4:00 Mike Hornblow called to say he had been referred to me by Jay French. 3162

Concerned a draft memo for the Attorney General from Henry Kissinger re foreign policy implications, which had been sent from Jeanne Davis.

Mr. Buchen had discussed it with Denis Clift yesterday.

At their request, we have returned the file to Mike Hornblow.

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01246

Collection/Series/Folder ID	:	001900267
Reason for Withdrawal	:	DR,Donor restriction
Type of Material	:	COR,Correspondence
Creator's Name	:	Thornburgh, Richard
Receiver's Name	:	Buchen, Philip
Description	:	Matter concerning Fernando De Bac a.
Creation Date	:	10/09/1975
Date Withdrawn	:	06/23/1988

Justice Dept.

THE WHITE HOUSE

WASHINGTON

October 10, 1975

MEMORANDUM FOR: JON ROSE

THROUGH: PHIL BUCHEN P.W.B.

FROM: DUDLEY CHAPMAN D.C.

SUBJECT: Participation by Antitrust Consumer Unit in Regulatory Proceedings

At the last meeting of the DCRG, you asked for comment on the Attorney General's interest in having the Antitrust Division participate in rate-making proceedings through its Consumer Unit.

I have discussed this with Rod Hills and Ken Lazarus. We all agree that: (1) successful opposition to a new consumer agency will require that we have a credible alternative, (2) it is good government policy to represent the interests of consumers in regulatory proceedings, and (3) Justice is the logical agency to do it. There is some overlap with COWPS, but we see your respective functions as complimentary. COWPS is a White House level, policy-making unit, while Justice has a litigating function.

This is a logical and promising area for regulatory reform, and should be promoted as such. I would appreciate your keeping us informed of your plans and progress, both directly and through the DCRG.

cc: Rod Hills
Ken Lazarus

October 31, 1975

Justice

Dear Ed:

Enclosed is a copy of a letter sent to the President by the American Civil Liberties Union, Americans for Democratic Action, the Center for National Security Studies, the Committee for Public Justice, Common Cause, the Institute for Policy Studies, the United Automobile Workers and the Project on National Security and Civil Liberties; together with my acknowledgment of this date to Morton Halperin.

In view of the difficult legal questions it raises, I believe it appropriate that a suggested response to the letter be prepared by the Department of Justice. Jim Wilderotter has informed me that several of these issues have previously been presented to the Department. For example, during the House Judiciary Subcommittee hearings on the "COINTELPRO" matter, I understand that Congressman Drinan asked the Justice Department to explain why the individuals and organizations affected by "COINTELPRO" operations could not be notified.

I would appreciate a suggested response as soon as possible.

Thank you.

Sincerely yours,

Philip W. Buchen
Counsel to the President

The Honorable Edward Levi
Attorney General
Washington, D.C. 20530

Enclosures

Justice

THE WHITE HOUSE

WASHINGTON

November 5, 1975

MEMORANDUM FOR

Office of the Attorney General
Department of Justice

The attached correspondence concerning the U.S. Marshal Service has been acknowledged and is forwarded to you for appropriate consideration and direct response.

Thank you for your assistance.

P.W.B.

Philip W. Buchen
Counsel to the President

THE WHITE HOUSE

WASHINGTON

November 5, 1975

Dear Mr. Roney:

By this letter, I hereby acknowledge receipt of your recent letter on behalf of the National Black Deputy U.S. Marshal Organization concerning the U.S. Marshal Service.

In view of the current litigation relating to the matters which your letter raises, I have forwarded your letter to the Office of the Attorney General for appropriate consideration and response directly to you.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

Mr. Wallace G. Roney
Chairman
The National Black Deputy
U.S. Marshals Organization
P.O. Box 1349
Washington, D.C. 20013

Justice

THE WHITE HOUSE

WASHINGTON

November 10, 1975

Re: Reporters Committee for Freedom of the Press, et al. v. American Telephone and Telegraph Company, et al., D.D.C., C.A. No. 74-1889.

Dear Mr. Miller:

The enclosed request from the Department of Justice requiring access to the "Presidential materials of the Nixon Administration" for the purpose of complying with discovery demands in the above-captioned action is self-explanatory.

In accordance with the Order of the United States District Court for the District of Columbia, entered October 21, 1974, as amended, in Nixon v. Sampson, et al., C.A. No. 74-1518, this is to request your consent to our access to the Nixon Presidential materials for the purpose of complying with this request. Due to the nearness of the hearing in this matter, as prompt a response as is feasible would be appreciated.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

Mr. Herbert J. Miller
Miller, Cassidy, Larroca & Lewin
Suite 500
2555 M Street, N. W.
Washington, D. C. 20037

November 11, 1975

MEMORANDUM FOR

THE HONORABLE HAROLD TYLER
DEPUTY ATTORNEY GENERAL

The enclosed telegram from Robert Tucker has been acknowledged and is being forwarded for your information.

Philip W. Buchen
Counsel to the President

Enclosure

THE WHITE HOUSE

WASHINGTON

November 14, 1975

MEMORANDUM FOR

THE HONORABLE EDWARD H. LEVI
THE ATTORNEY GENERAL

Attached please find a letter and attachments which were recently sent to the President by Senator James Buckley.

This material is submitted for any action which you may deem appropriate in the circumstances.

P.W.B.

Philip W. Buchen
Counsel to the President

Attachments

Justice

THE WHITE HOUSE

WASHINGTON

November 24, 1975

MEMORANDUM FOR: DICK CHENEY

FROM: PHIL BUCHEN

The Attorney General has called to advise us that antitrust suits are about to be filed against Lockheed Corporation and Bechtel Corporation for allegedly conspiring with subcontractors to effectuate the Arab boycott. You may want to pass this information on to the President.

THE WHITE HOUSE

WASHINGTON

November 26, 1975

Dear Ed:

You can be sure I would not have wanted you to refrain from expressing your concern about the November 21 memo which went out over my signature.

The only reason for the memo was to respond to Don Rumsfeld's concern (when he was still on the President's staff) that Cabinet officers who were not involved and White House Staff had become confused by what had happened all at once to involve Secretaries Kissinger, Morton and Mathews in subpoena difficulties. He thought that the differences between their respective situations were not sufficiently understood.

My assignment was to prepare a factual summary for distribution -- not to provide legal advice or directions for handling similar problems in the future. To the extent the memo seems to reach beyond this limited purpose, it was unintentional.

I am mindful of the need to keep the departments from looking to my office for legal advice, and I shall be more alert to avoid any future implications to the contrary.

May my most helpful and gratifying relationship with you continue as always.

Sincerely,

Philip W. Buchen
Counsel to the President

Honorable Edward H. Levi
The Attorney General
Department of Justice
Washington, D. C. 20530

Justice
(see
Voting rights

THE WHITE HOUSE

WASHINGTON

November 26, 1975

MEMORANDUM FOR: ANTONIN SCALIA

FROM: PHILIP BUCHEN P.W.B.

SUBJECT: Overseas Citizens Voting Rights Act of 1975 (S. 95; H.R. 3211)

I understand that this bill, which would eliminate the disenfranchising of U. S. citizens abroad in Federal elections, and which has wide support in both parties, is presently opposed by the Administration solely because of the position taken by the Department of Justice.

While I appreciate that arguments can be made on both sides of the question of constitutionality, it does appear that the bill (a) is desirable in principle, and (b) consistent with constitutional, legislative and judicial trends to eliminate artificial barriers to the franchise. For these reasons, and because of strong bipartisan support for the bill, I would appreciate the advice of the Attorney General as to whether the Department of Justice is willing to reconsider its past opposition to this legislation. Since your office has been previously involved, I am addressing this request through you rather than directly to the Attorney General.

We need your answer as soon as possible because a decision on this legislation needs to be made in time for the Congress to know the Administration's position and act before the end of this year.

Thank you.

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01249

Collection/Series/Folder ID	:	001900267
Reason for Withdrawal	:	DR,Donor restriction
Type of Material	:	COR,Correspondence
Creator's Name	:	Buchen, Philip
Receiver's Name	:	LaFalce, John J.
Description	:	Personal matter.
Creation Date	:	12/30/1975
Date Withdrawn	:	06/23/1988

THE WHITE HOUSE

WASHINGTON

January 6, 1976

MEMORANDUM FOR: DUDLEY CHAPMAN

FROM: PHIL BUCHEN

Attached for your preliminary review is a document sent to me by the Attorney General which proposes legislation to establish an Economic Concentration Review Commission.

This proposal represents the Attorney General's reaction to various other proposals in Congress which calls for changes in the antitrust laws or for studies as to particular aspects of the antitrust problem.

I would appreciate it if you would give me your views on this matter.

Attachment

DRAFT LEGISLATION

To establish a recurring Economic Concentration Review Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a recurring Economic Concentration Review Commission (hereinafter referred to as the "Commission"). Each Commission shall be constituted in the manner hereinafter provided.

Purposes

Sec. 2. The Commission shall study economic concentration in the United States. The study shall include:

(a) the level of concentration of major industries in the United States, to be chosen in the discretion of the Commission;

(b) the effect of such concentration on competition, efficiency, product diversity, and innovation in the industries studied by the Commission, and an assessment of the ability of these concentrated industries to obtain and employ market power over time;

(c) the relationship between various types of corporate acquisitions or mergers and long-term industrial structure;

(d) the identification of those areas where there appear to be special problems as a result of undue con-

centration, anticompetitive behavior, inefficiency, or lack of product diversity or innovation;

(e) necessary revisions, if any, in federal reporting of industrial statistics that would aid the Commission or interested antitrust enforcement agencies in assessing any of the above.

Membership

Sec. 3. (a) The Commission shall be composed of 7 members, appointed by the Attorney General, and shall include persons whose special knowledge and understanding qualify them to undertake the above study: Provided, however, That Commissioners shall not be full time employees of the Federal Government at the time of their appointment.

(b) The Attorney General shall select a Chairperson from among the members of the Commission.

(c) Vacancies on the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

Quorum

Sec. 4. A majority of the Commission shall constitute a quorum.

Compensation

Sec. 5. Commissioners shall each receive $200 per diem when engaged in the performance of their duties, plus reimburse-

ment for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

Powers of Commission

Sec. 6. (a) The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its functions and duties, hold such hearings and sit at such times and places and otherwise secure such information as the Commission or such subcommittee may deem advisable: Provided, however, That the Commission may not compel the testimony of witnesses or the production of documents, records, books, or other evidence.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including each independent agency, may furnish to the Commission, upon request made by the Chairperson, such information as the Commission deems necessary to carry out its functions under this Act. Such requests may include requests for information to be gathered and provided to a successor Commission appointed pursuant to Section 9 of this Act. Provided, however, that the Commission shall not disclose such information to any person except as necessary in the performance of its functions and duties under this Act, and shall in the event of any such excepted disclosure be governed by the statutory provision, if any, governing disclosure by the department, agency, or instrumentality of the executive branch or independent agency

from which such information was obtained; and provided further, that any request or subpoena for such information furnished to the Commission shall in all instances be referred by it to the department, agency, or instrumentality for which information was obtained, which shall have sole responsibility for dealing with the request or subpoena in the manner required by law.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairperson shall have the power to:

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of Chapter 51 and subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates, but not at rates in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of Title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities which are necessary to the discharge of its duties, or which, in the judgment of the Commission, may be necessary to the discharge of duties by a successor Commission appointed pursuant to Section 9 of this Act.

Report of the Commission

Sec. 7. The Commissioners shall write a final report, to be transmitted to the Attorney General not later than eighteen months after the first meeting of the Commission, containing a detailed statement of their findings and conclusions together with such recommendations as they deem advisable. The report and any recommendations of the Commissioners shall be made available to Congress and to the public upon transmittal.

Expiration of the Commission

Sec. 8. Sixty days after the transmittal of the final report provided for in Section 7, the Commission shall cease to exist until such time as a successor Commission is appointed pursuant to Section 9 of this Act.

Appointment of Successor Commission

Sec. 9. Five years after each Commission ceases to exist, the Attorney General shall appoint a successor Commission in the

manner specified in Section 3. All provisions of this Act shall apply to each such successor Commission. Members of previous Commissions may be appointed to any successor Commission or Commissions.

Authorization of Appropriations

Sec. 10. There are authorized to be appropriated, without fiscal limitations, such sums, not to exceed $2 million, as may be necessary for the initial Commission to perform its duties under this Act.

THE WHITE HOUSE

WASHINGTON

February 3, 1976

MEMORANDUM FOR

THE ATTORNEY GENERAL

On Wednesday, January 28, 1976, W. Clement Stone of Chicago had a meeting with the President which I attended. He talked to the President about the work being done by private groups within prison communities to change the attitudes of prisoners and to instill the kind of motivation they require to make a successful adjustment upon their release from prison. Mr. Stone said there are numerous such programs, some of which are being supported by grants from the Clement Stone Foundation, but that so far as he knows, there is no authoritative evaluation being made of which programs and which techniques promise the best results. He therefore urges the Federal Government to make such an evaluation, either through one of its own programs or through a program partly funded by private funds.

It may be that some activity along this line is already taking place either under the auspicies of LEAA or by the Bureau of Prisons. If so, I would like to have information in that regard to pass on to Mr. Stone.

If no such evaluation is taking place, then it would be helpful if I could have a report from available information on the scope and nature of the various efforts to which Mr. Stone referred along with an opinion as to the feasibility of undertaking a systematic and objective evaluation of what the impact and success of the different kinds of efforts are.

P.W.B.

Philip W. Buchen
Counsel to the President

cc: Dick Cheney

24 FEB 1976

TO: Mr. Philip W. Buchen
Counsel to the President

FROM: The Attorney General

RE: Potential seizure of aircraft belonging to the People's Republic of China

Last Wednesday, February 18, the Department of Justice was informed by the Legal Adviser of the Department of State that Secretary Kissinger had received a telegram from one Lydia Schmuser of Los Angeles stating: "If the Chinese plane lands on US territory, will try and impound it for all American property confiscated in 1949 which totals to $200-mil.".

1. Under existing law, foreign government-owned property is subject to attachment or seizure pursuant to court process for purposes of obtaining so-called quasi-in-rem jurisdiction over a foreign state. However, no forcible execution of a judgment can be had against such property. A much-quoted public announcement of the Legal Adviser of the Department of State made in 1959 stated in pertinent part: "The Department has always recognized the distinction between 'immunity from jurisdiction' and 'immunity from execution'. The Department has maintained the view that under international law property of a foreign sovereign is immune from execution to satisfy even a judgment obtained in an action against a foreign sovereign where there is no immunity from suit." ALI Restatement (Second), Foreign Relations Law of the United States, § 69, Reporter's Note 2.

2. If property of a foreign state is attached in a suit drawing into issue governmental (as distinguished from commercial) activities of a foreign state, it is customary for the Department of State to certify to the courts the foreign state's immunity

from suit, and the immunity of its property from seizure. This is done by means of a so-called "suggestion of immunity" which is filed by the Department of Justice with the court; attached to the "suggestion" is a copy of the communication received from the Department of State "recognizing and allowing" the immunity in a given case. Supreme Court decisions firmly establish the principle that such Executive certifications of immunity bind the courts. In Ex Parte Peru, 318 U.S. 578, 588-589 (1943), the rationale of the American "suggestion" practice was explained as follows:

> When such a seizure [of foreign state-owned property] occurs, a friendly foreign sovereign may present its claim of immunity by appearance in the suit by way of defense . . . [citing cases]. But it may also present its claim to the Department of State, the political arm of the government charged with the conduct of our foreign affairs. Upon recognition and allowance of the claim by the Department of State and certification of its action presented to the court by the Attorney General, it is the court's duty to surrender the . . . property] and remit . . . [the plaintiff] to the relief obtainable through diplomatic negotiations. . . . This practice is founded upon the policy, recognized both by the Department of State and the courts, that our national interest will be better served in such cases if the wrongs to suitors, involving our relations with a friendly foreign power, are righted through diplomatic negotiations rather than by compulsions of judicial proceedings.

3. If a suit were brought against the People's Republic of China ("PRC") for compensation for confiscated property, the Department of State would certify the immunity of the PRC from suit as well as the immunity of its property. To enable us to go into court at once, we briefed the United States Attorney in Los Angeles on the steps to be taken to obtain a release of the PRC aircraft if it were seized pursuant to a writ issued by a federal or state court.* We also prepared

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* It is established that the Executive may not frustrate the efforts of a process-server from serving a writ of foreign attachment against property of a foreign state, even in instances where an Executive determination has been made to certify the immunity of the property from legal process. Rich v. Naviera Vacuba, S.A., 197 F. Supp. 710, 718 (E.D. Va. 1961), aff'd, 295 F.2d 24 (4th Cir. 1961).

an appropriate suggestion which was cabled to Los Angeles, together with a letter from the Department of State certifying the aircraft's immunity. In addition, we requested the United States Attorney to examine the dockets of the United States District Court and of the California State courts in an effort to ascertain whether an attempt had been made within the past several weeks to bring a suit against the PRC, with an application for a writ of foreign attachment. We are satisfied that no suit is pending in the federal court; as regards the State courts, no firm determination could be made since the indexing of cases filed in the various courts in the County of Los Angeles is weeks behind.

4. The reports which came out of Los Angeles early Friday morning that the PRC aircraft had been seized, proved erroneous. The PRC aircraft which landed at Los Angeles International Airport to pick up Mr. Nixon left after a two-hour turn-around time.

5. The potential for the aircraft's seizure on its return trip remains. In the event of seizure, we are prepared to proceed in conformity with the preparations made last Friday and to seek to obtain a prompt release of the aircraft. Unlike last Friday, however, there could be a considerable delay if the aircraft were to land on a weekend, while the courts are closed. While every effort would be made to reach a judge of the court issuing the process to rule on the Government's suggestion of immunity at once, it is entirely possible that the aircraft would remain subject to attachment at least until the courts reopen on the following Monday.

6. To minimize the risks of seizure of the aircraft pursuant to court process, we suggest that:

a) if the aircraft is allowed to land at the Los Angeles International Airport, it be permitted to stay on the ground only the minimal turn-around time;

b) alternately, the aircraft be allowed to land at a military air field, with a minimal turn-around time;

c) finally, the risk of court-ordered seizure would be removed if the aircraft discharged its American passengers in Canada, and the passengers used commercial carriers for the return from Canada.

Justice

THE WHITE HOUSE

WASHINGTON

February 24, 1976

Dear Mr. Uhlmann:

I am enclosing a copy of the inquiry by Congressman Ed Eshleman concerning allegations in connection with a Philadelphia HUD real estate transaction.

It appears that the Department of Justice has not made an independent evaluation of this matter. In view of Congressman Eshleman's concern, I would appreciate a judgment from the Department as to whether there is any problem here.

Thank you for your cooperation.

Sincerely,

Philip Buchen

Philip W. Buchen
Counsel to the President

The Honorable Michael M. Uhlmann
Assistant Attorney General
Office of Legislative Affairs
Department of Justice
Washington, D.C. 20530

cc: The Honorable Edwin D. Eshleman

THE WHITE HOUSE

WASHINGTON

February 24, 1976

Dear Mr. Eshleman:

I am sorry to be so late in responding to your letter concerning alleged wrongdoing in connection with a Philadelphia HUD real estate transaction. Your request puts us in a particularly difficult position because you are in effect urging that something improper occurred despite the contrary findings by both HUD and the General Accounting Office.

As I am sure you are aware, we have no independent investigative resources here; and we are most reluctant to intervene in the investigatory functions of the departments and agencies. We are not in a position to make an independent judgment on the rather complicated fact situation that you present.

The papers you sent to us included a copy of a letter to the Attorney General on April 22, 1975, and we have learned from his office that your inquiry was forwarded to the HUD office of Inspector General in view of the investigation then being conducted by that agency. Since the Department of Justice has apparently not considered your charges on their merits following the completion of the HUD investigation, you may wish to present your arguments to them now. For this reason, I am sending a copy of our correspondence to Assistant Attorney General Michael Uhlmann. A copy of my letter to him is enclosed.

I appreciate your concern, and hope that this matter can be resolved to your satisfaction.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable Edwin D. Eshleman
House of Representatives
Washington, D.C. 20515

cc: The Honorable Carla Hills
The Honorable Michael M. Uhlmann w/Encl

THE WHITE HOUSE

WASHINGTON

March 29, 1976

Dear Congressman Clawson:

The President has asked me to acknowledge receipt of the materials from the American Bar Association dealing with the extension of bureaucratic power and the preservation of the separation of powers which you were kind enough to present to him on behalf of Mr. John Fitzgerald and Mr. George Atkinson, Jr.

I have asked Mr. Michael Uhlmann, Assistant Attorney General, Office of Legislative Affairs, Department of Justice, to review these materials and to provide me with his analysis and recommendations on the ABA resolution as soon as practicable. At such time as this review is completed, I hope to have the opportunity to chat with you and Messrs. Fitzgerald and Atkinson regarding our conclusions.

With best wishes,

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable Del Clawson
House of Representatives
Washington, D. C. 20515

Atty Gen.

THE WHITE HOUSE
WASHINGTON

May 25, 1976

TO: JIM LYNN
DAVE GERGEN

FROM: PHIL BUCHEN

Attached are excerpts from a speech given by Bill Coleman May 21, which relates to a point of discussion which we had at yesterday's meeting in the Roosevelt Room.

5/21/76

This is being given tonight at the American Law Institute Dinner here in Washington:

Secretary Coleman:

I think Attorney General Levi has responded to some of the same types of problems over at Justice with a style of his own that is perfect to restore faith in that Department.

He has brought a certain intellectual and moral leadership to that Department which has quite frequently been missing in the last decade and I think as a result the Justice Department's reputation is as high now in the eyes of the Bar as it has ever been.

A man of less courage or less dedication to a fair process of deliberation could not have corrected the abuses of the FBI and CIA with no infringement of the rights of the individual. He certainly could not have done so in a way that was accepted by the agencies involved, the Congress, and a wide range of the public.

I don't always agree with everything Ed Levi does. Indeed, and I report this publicly because it is already public knowledge, I have been urging him during these last several days not to add to our inventory of disagreements by taking a position in the Boston school litigation which in my respectful view would be ill-timed and unsound in law.

But what has most impressed me throughout our frank and extended discussions has been the Attorney General's

Justice

THE WHITE HOUSE

WASHINGTON

May 27, 1976

MEMORANDUM FOR

The Honorable Edward H. Levi
Attorney General

I thought you would be interested in the attached letter from Wisconsin State Supreme Court Justice Nathan Heffernan. The Justice mentions in his letter that Federal District Judge Reynolds would welcome Justice Department participation in the Milwaukee case at this time for the purpose of assisting in the formulation of a desegregation plan. Attached also is a copy of my response to Justice Heffernan.

P.W.B.

Philip W. Buchen
Counsel to the President

THE WHITE HOUSE

WASHINGTON

May 26, 1976

Dear Nat:

Thank you for your letter of May 24 advising me that District Judge John Reynolds would welcome the participation of the Department of Justice in the Milwaukee case at this time for the purpose of assisting in the formulation of a desegregation plan. I am taking the liberty of sending your letter to Attorney General Levi since he will make the decisions in regard to Justice Department participation in individual cases.

Bunny and I were delighted to be able to be with you during your Washington trip but were very sorry to hear about the death of Chief Justice Wilkie. Please convey our sympathy to his family.

Sincerely,

Philip W. Buchen

The Honorable Nathan S. Heffernan
Justice, Supreme Court of the State
of Wisconsin
Madison, Wisconsin 53702

STATE OF WISCONSIN
SUPREME COURT
MADISON 53702

CHAMBERS OF
NATHAN S. HEFFERNAN, JUSTICE

May 24, 1976

The Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C.

Dear Phil:

Dorothy and I want to thank you and Bunny for your wonderful hospitality during our recent stay in Washington. We had an unusually enjoyable time, and it was a pleasure to be with both of you.

Our very good week was shattered, however, by the unexpected death of our Chief Justice, Horace Wilkie, who had been with us in Washington and with whom John and I had lunch on Thursday. Accordingly, as of this morning, we have a new Chief Justice and things are very hectic.

However, pursuant to our discussion at dinner, I have secured some additional information on the Milwaukee school integration program.

On the way back from Washington I sat next to District Judge John Reynolds, who has recently issued the order finding improper segregation of the Milwaukee schools.

Judge Reynolds was the governor who appointed both John and me to our present positions. As I think I mentioned to you, Reynolds has always felt that compulsory busing was not a satisfactory solution to the school segregation problem. He told me that when the case commenced he requested the Department of Justice to intervene for the purpose of assisting in the event the court would be required to implement a

desegregation plan. At the time of the request, Jerris Leonard was the head of the Civil Rights Division, and that Division declined to become involved, apparently for the reason that Leonard was from Milwaukee. Reynolds told me, however, that he would welcome the intervention of The White House or of the Department of Justice at this time for the purpose of assisting in the formulation of a plan.

He called me this morning to tell me that Special Master John Gronouski had today filed a recommended interim voluntary plan. The judge stated that he expects to approve this plan which would avoid involuntary busing for a trial period of at least a year.

While Judge Reynolds feels very strongly about the necessity that something be done about the existing problem in Milwaukee, he feels that busing is not a completely satisfactory solution to the problem. He told me that he expected to issue an order and opinion within the next few days approving the Special Master's temporary voluntary plan, and he will send that order and opinion to you.

I find that his original opinion has been published and appears at 408 F. Supp. 765 (1976) as Amos v. The Board of School Directors of the City of Milwaukee. A portion of the case is pending on appeal in the Seventh Circuit under the caption of Armstrong v. O'Connell. A memorandum opinion relating to some of the formalities of that appeal appears under that caption at 408 F. Supp. 825.

To make a long story short, this might be the kind of case which The White House has been looking for as appropriate for intervention before a final plan has been formulated. One thing I am sure of,

Judge Reynolds would welcome any assistance that he could get, and I think that representatives of The White House or of the Department of Justice would find him very cooperative.

So much for the business, Phil. Dorothy and I very much appreciated your attention to us, and thank your gracious secretary, Eva Daugherty, for her hospitality also.

Very truly yours,

Nat Hayes

The Capital Times, Madison, Wis. 5/24/76

Gronouski Gives Plan For Desegregation

MILWAUKEE (AP) — A school desegregation plan which relies heavily on voluntary proposals from school administrators was presented today to U.S. District Court Judge John Reynolds.

John Gronouski, a former Wisconsin tax commissioner named as special master to oversee racial integration of the city's public schools, said the administration's plan results from intensive effort over a 9½-month period and deserves to be tried.

He said the plan deserves a "fair trial," but he added that **"I have not included in my recommendations the back-up involuntary assignment plan for the 1976-77 school year advanced by counsel for plaintiffs during the May 12-15 hearing."**

Reynolds issued the integration order at the end of January in a suit brought on behalf of several students. He found that previous school district policies led to illegal segregation, and he ordered that the school district develop and implement a desegregation plan.

Gronouski also presented a voluntary teacher integration plan which has been proposed by the Milwaukee Teachers Education Association for at least the 1976-77 school year.

The MTEA proposed that the plan rely on voluntary transfers of teachers, retirements and promotions and bring about racial integration over a period of years.

Also presented were administration proposals for magnet schools.

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

May 29, 1976

The President
The White House
Washington, D.C.

Dear Mr. President:

As you know, I have decided the United States will not file a memorandum with the Supreme Court at the present stage of the Boston School Desegregation case. If, however, the Supreme Court decides to grant certiorari in this case, the Solicitor General will then file a brief as amicus curiae, in connection with arguments on the merits of the relief granted. This step would be consistent with the practice of participation by the United States either as party or as amicus curiae in virtually all of the previous school desegregation cases which the Supreme Court has elected to review.

The Department of Justice is continuing to review possible cases which in the Supreme Court may help clarify the governing decisions on the scope of relief.

At your direction, the Department has been drafting legislation covering procedures to be followed by the trial courts in the designing of federal relief to eliminate unconstitutional discrimination and its effects in school systems, and to put the school system and its students where they would have been if the violations had not occurred. I believe this legislation will be an important step forward.

Respectfully,

Edward H. Levi
Attorney General

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

May 29, 1976

The President
The White House
Washington, D.C.

Dear Mr. President:

As you know, I have decided the United States will not file a memorandum with the Supreme Court at the present stage of the Boston School Desegregation case. If, however, the Supreme Court decides to grant certiorari in this case, the Solicitor General will then file a brief as amicus curiae, in connection with arguments on the merits of the relief granted. This step would be consistent with the practice of participation by the United States either as party or as amicus curiae in virtually all of the previous school desegregation cases which the Supreme Court has elected to review.

The Department of Justice is continuing to review possible cases which in the Supreme Court may help clarify the governing decisions on the scope of relief.

At your direction, the Department has been drafting legislation covering procedures to be followed by the trial courts in the designing of federal relief to eliminate unconstitutional discrimination and its effects in school systems, and to put the school system and its students where they would have been if the violations had not occurred. I believe this legislation will be an important step forward, and I hope you will be willing to recommend it to the Congress.

Respectfully,

Edward H. Levi
Attorney General

Justice

THE WHITE HOUSE

WASHINGTON

June 2, 1976

MEMORANDUM FOR

THE ATTORNEY GENERAL

SUBJECT: Presidential Message on the Federal Courts

As you know, the President addressed the Sixth Circuit Judicial Conference last August at which time he announced his intention to undertake a sweeping review of the needs of the Federal judiciary. We have been working on that project actively since January, primarily with your committee at the Justice Department, and with others who are concerned with the subject.

It is our hope that the President can deliver a comprehensive message to the Congress on the Federal courts before the end of the summer. We see this as a major project to be handled in much the same manner as the Crime Message. As you know, during the Conference in St. Paul last month on "The Causes of Popular Dissatisfaction with the Administration of Justice," the Solicitor General's remarks concerned this project and suggested some of the proposals the Department was considering. We believe that a Presidential Message is a natural follow-up to that Conference.

In order to stay within our timetable for delivery of this message we would need to have the Department's options memo and draft message by the end of June. Please let me know whether you think this timetable is desirable and realistic.

P.W.B.

Philip W. Buchen
Counsel to the President

THE WHITE HOUSE
WASHINGTON

June 1, 1976

Phil:

Attached is a memo which I would like you to sign and forward to the Attorney General.

Up until about a month ago, my project was on track with Bob Bork, et al. I believe this little nudge would be helpful in insuring that the material which, as I understand it is already 90% complete, would be forwarded to us promptly.

Ken

PWB - Copy

June 2, 1976

MEMORANDUM FOR

THE ATTORNEY GENERAL

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Philip W. Buchen
Counsel to the President

PWB:KAL:dlm

Justice

THE WHITE HOUSE

WASHINGTON

June 10, 1976

MEMORANDUM FOR: JUDGE HAROLD TYLER
DEPUTY ATTORNEY GENERAL

FROM: PHILIP W. BUCHEN P.W.B.
COUNSEL TO THE PRESIDENT

SUBJECT: Gerald J. Gallinghouse,
U. S. Attorney (ED LA)

Attached is further correspondence along with enclosures received from Attorney John Cervase. I also attach a copy of my reply.

Attachments

THE WHITE HOUSE

WASHINGTON

June 10, 1976

Dear Mr. Cervase:

Your recent letter of June 4th concerning Mr. Gerald J. Gallinghouse has been received.

As I earlier advised you, this matter is under consideration by the Department of Justice. I am sure that the Department is aware of the information you have most recently supplied, but I am confirming this by supplying to the Department a copy of your letter with enclosures.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

Mr. John Cervase
Counsellor at Law
423 Ridge Street
Newark, New Jersey 07104

Justice

THE WHITE HOUSE

WASHINGTON

June 10, 1976

MEMORANDUM FOR: JACK MARSH

FROM: PHIL BUCHEN P.

SUBJECT: Congressman Gene Taylor

Promptly after receiving your memorandum on this subject dated June 4, I talked to Harold Tyler at Justice. I find that Justice is fully aware of the likely factual differences between the instances cited in the Wall Street Journal concerning the travel reimbursement claims by various members of Congress.

Justice
(for
hold file

June 10, 1976

MEMORANDUM FOR:

Mr. Ronald G. Carr
Special Assistant to the Attorney General
Room 5119
Department of Justice

Attached is a duplicate of a memorandum prepared by the Secretary of HEW for the President dated May 20, 1976. It includes at Tab B a proposed Presidential Executive Order.

Philip W. Buchen
Counsel to the President

Attachment

PWBuchen:ed