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THE WHITE HOUSE
WASHINGTON

December 22, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

JIM CONNOR *JEC*

The attached letter was returned in the President's outbox with the following notation:

"My brother, Tom, a former member of State House of Representatives forwarded this to me on behalf of a former colleague. Can we prepare response?"

Please follow up with appropriate action.

cc: Dick Cheney

THE WHITE HOUSE
WASHINGTON

Dick Cheney

My brother, Tom,
a former member of State
House of Rep. forwarded
this to me on behalf of
a former colleague.

Can we prepare response.

Conner

THE WHITE HOUSE
WASHINGTON

Staff

1) Immediate response
to telephone calls
& correspondence.

ans. on ph. calls &
correspondence.

House of Representatives



LANSING, MICHIGAN 48901

SEVENTY-SIXTH DISTRICT
WILLIAM L. JOWETT
LANSING PHONE: AREA 517-373-1790
REPLY TO: STATE CAPITOL

December 4, 1975

MEMBER OF COMMITTEES ON:
APPROPRIATIONS
JOINT CAPITAL OUTLAY
SUBCOMMITTEE

The President of the United States
The White House
Washington, D. C. 20500



Dear Mr. President:

In a speech to the Chamber of Commerce of the United States as reported in Nation's Business Magazine of June, 1975, you stated, "All too often the federal government promulgates new rules and regulations which raise costs and consumer prices at the same time. To achieve small or somewhat limited social benefits in these cases we must either provide proposed rules and regulations to lower the cost or must not adopt them in the first place." According to the same article you further indicated, "While the intention of regulations is to protect consumers it sometimes does just the opposite." And continuing, you said, "A major problem is these costs are often hidden from the public generally."

On August 28, 1975 the Federal Trade Commission issued proposed trade rules for funeral service. These rules were based on a report which made it clear that it, the report, was not based on any interviews or input from anyone in funeral service. Rather, it was based solely on the statements of persons who have a bias or prejudice against funeral service and a Washington, D.C. survey which was not demographically sound and which was taken in an area where funeral service has not been properly regulated. Consequently, the report carries with it the stigma of bias and prejudice instead of objectivity which one has the right to expect from a federal agency.

Funeral customs are different in Pennsylvania than they are in Michigan as they are in Georgia and as are the practices in California. These customs and ceremonies of funeral service are regulated in each of the states and it is most impractical that any one set of rules and laws could properly regulate these multi-faceted practices. Indeed an attempt of this nature on a federal level would be a move to establish new mores of the people of all of the states, including those in Michigan.

Recently Bernard Siegan, Professor of Law at San Diego Law School, in commenting on the rules for a news media said, "They (funeral directors) will have to fill out and file numerous forms consuming important time and money and probably require added clerical and professional help." The professor continued by saying "Entrepreneurs with much knowledge and experience will be ruled by people

The President of the United States

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with considerably less qualification" taking note that the primary staff persons responsible for the FTC funeral service report not only decide not to consult with the profession itself, but have little or no experience not only in funeral service but in the business world generally. Concluding the professor stated, "The new procedures will raise the cost of doing business and the limitation or initiative will prevent some services."

I am sure you are acquainted with the results of the Real Estate Settlement Act of 1974 which according to the periodical, Of Consuming Interest, resulted in "Information Overload" indicating that Congress had enacted a law which created so great a hardship on the practitioners that the law became counter-productive and against the welfare of the consumer. Likewise, that the proposed funeral service trade rules having been proposed without any thought to the practice of funeral service will be counter-productive to the public and when enacted will increase costs of the funeral particularly to the "lower end of the line" which is an area which would create the greatest hardship on the buying public.

The FTC has tried to indicate that the licensing boards of the state of Michigan and other states around the country have not been doing their job. Yet the Federal Trade Commission by its own acknowledgment during the two years between July, 1973 and August 28, 1975 have received less than 200 complaints regarding funeral service out of over 3,800,000 deaths which occurred during the same period of time. Many of these complaints were not of the consumer type.

The Federal Trade Commission in its report on which the proposed rules were based, indicated it had the authority to preempt state laws and that its rules would thus become "the supreme law of the land." Based on your knowledge of constitutional law and the fact that the Congress has not specifically delegated to the Federal Trade Commission the right to preempt state law which is an inherent right of Congress, I believe it is at its very minimum questionable whether the Federal Trade Commission does in effect have the right to preempt state law and become the "supreme law of the land."

I hope you will believe as I do that a federal agency should:

1. Make its investigation of unfair and deceptive practices as objective as possible in order to arrive at a result which would be beneficial not only to the consumer but also to the business or profession involved.
2. To exercise its investigation and authority within the bounds of the law which created the agency and not try to usurp the powers of the Congress.

The President of the United States

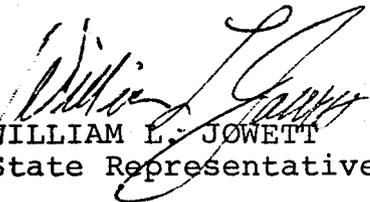
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I am therefore requesting that if you believe the above statements are valid and if you feel matters that involve local customs and usages can be properly regulated at the state/local level, that you use the power and resources available to you as President of the United States to correct the wrong which is being promulgated against the public by the Federal Trade Commission attempts to regulate funeral service. Should you desire more information concerning the particulars of this letter and the basis upon which the above request is made, I and other friends of yours in Michigan will be glad to meet with you or your staff.

With kindest personal regards I remain,

Cordially,



WILLIAM L. JOWETT
State Representative

WLJ:kp