The original documents are located in Box 1, folder "American Bar Association (1)" of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

[1974]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

Date: August 24

TO: Phil Buchen

FROM: General Counsel

It's not as if you don't have enough material to read, let alone to worry about! But if you can spare a few moments, you will find this of interest -- paticularly as it relates to the critical subject of economics and Executive control.

AE

Stan Ebner

Department of Justice

Presentation of

Robert G. Dixon, Jr.
Assistant Attorney General
Office of Legal Counsel

on

The Independent Commissions
and
Political Responsibility

Before the

Administrative Law Section
American Bar Association Annual Meeting
Honolulu
Wednesday, August 14, 1974 at 9:30 a.m.
Sheraton Waikiki Hotel

Do not release before delivery date

THE INDEPENDENT COMMISSIONS AND POLITICAL RESPONSIBILITY

Robert G. Dixon, Jr.

I. The Anomaly of Independence in Our Constitutional and Political System

Despite the fact that the Interstate Commerce Commission, the granddaddy of the independent regulatory commission movement, will observe its 100th anniversary 13 years hence, it is axiomatic from the perspective of a constitutional purist that there is no place in our separation of powers system for the so-called "headless fourth branch of government" of which the ICC was the first component. Apart from constitutionalism, democratic theory forbids placing either execution of laws or policy-making beyond the effective reach of the political process. Because the life of the law is not logic but experience, we have learned to live with exceptions and accommodations.

Adjudicative policy-making has always been an exception to simplistic democratic and separation of powers theory, once we abandon the fiction that judges merely discover or apply law. And what is adjudication anyway? Is a class-action lawsuit a species of rulemaking? Is formal rulemaking under the

Administrative Procedure Act a species of adjudication?

Granted that our separation of powers system is complex, it is well on occasion to revert to fundamentals, to pose basic questions about where the independent agency movement fits into our overall system, and in particular the relation of the regulatory commissions to the Executive. Despite Madison's comment that the essence of separation theory was that the "whole power" of one branch not be exercised by another branch, [1/] it is doubtful that the Framers ever envisioned "whole agencies" that would not be under direct legislative, executive, or judicial branch control. The very terms of the Constitution divide federal governmental powers into "legislative powers," "executive powers," and "judicial power." [2/]

Thus, in addition to being "headless," the fourth branch is "rootless" in constitutional concept. Justice Jackson candidly acknowledged the problem in these terms:

> Courts have differed in assigning a place to these seemingly necessary bodies in our constitutional system. Administrative agencies have been called quasi-legislative, quasi-executive or quasi-judicial, as the occasion required, in order to validate their function within the separation-of-powers scheme of the

> Constitution. The mere retreat to the qualifying "quasi" is implicit with confession that all recognized classifications have broken down, and "quasi" is a smooth cover which we draw over our confusion as we might use a counterpane to conceal a disordered bed. FTC v. Ruberoid, 343 U.S. 470, 487 (1952). See also United States v. Klein, 13 Wall (80 U.S.) 128, 147 (1872).

As a matter both of constitutional and democratic principle, I would suggest that it is especially questionable to place outside of executive control the power to execute the laws. Every proposal at the Constitutional Convention placed this in the Chief Executive.[3/] The President is under a mandate to "take care that the laws be faithfully executed," and the people expect it. The Constitution makes no exception for laws administered by independent regulatory agencies.

The courts have consistently reaffirmed the proposition that the authority to enforce the laws is an executive function.[4/] As phrased by the Supreme Court in the Myers removal case:

> [A]rticle II grants to the President the executive power of the Government, i.e., the general administrative control of those executing the laws, including the power of appointment and removal of executive officers--a conclusion confirmed by his obligation to take care that the laws be faithfully executed;. . . Myers v. United States, 272 U.S. 52 (1926).[5/]

Of course, we also have the Humphrey's[6/] case where the President's removal power was restricted in respect to the Federal Trade Commission, because the Commission's functions were primarily quasi-legislative and quasi-judicial. But what of the limited executive functions of the Commission? Did the court in effect treat them as being in the nature of "harmless error" in the constitutional sense? At this stage of our history, the constitutional status of independent regulatory commissions rests more on practice than on logic.[7/]

The democratic principles underlying the Constitution require that government be immediately responsive to the people, at least in matters concerning the making and execution of the laws. Independent regulatory commissions, at least in theory, are independent of executive control. It grossly overstates the possibilities for effective congressional oversight and control to call them "arms of Congress." Congress has no single head, but is bicamerally divided into a committee structure, thereby enhancing its essential representative function but diffusing responsibility in a way inconsistent with a continuous administrative leadership function.

The President is held responsible by the people for what goes on in the federal government--notwithstanding the legal independence that an agency may have. A former SEC Chairman, William Cary, has noted that even though the ordinary operations of a regulatory agency have little political effect "the White House can be very seriously hurt if there is any trouble." Cary never saw President Kennedy officially, but a White House assistant told him: "You would have heard from us if there was anything wrong."[8/]

The ways in which an agency may hear from the White House may, rightly or wrongly, create its own problems. There is little solid guidance on Executive duties in this area. The Executive branch has had a tendency to reach toward the administrative agencies and try to rationalize their activities as part of an overall plan. This does not mean that the President must administer the laws himself. It does mean that he must see that the agencies are doing their jobs. When he reports to Congress on the State of the Union, as required by the Constitution, and recommends necessary measures, he cannot cast a blind eye in the direction of the regulatory agencies. Of course, what may seem to some to be merely good administration may smack of

of improper influence to others who believe the problem begins and ends with the word "independence."

In practice, the independent agencies do make policy substantially free from the immediate reach of the popular political process. The Federal Reserve Board, for example, makes decisions that vitally effect interest rates and the general rate of inflation--two concerns foremost in the minds of the American people--free from the immediate check of the popular will. The Interstate Commerce Commission recently issued an order that gives railroads 60 days to show why the agency should not require them to purchase 70,000 new freight cars and repair 18,000 out-of-service cars within two years.[9/] That proposed order will affect the railroads, shippers and consumers alike in significant ways yet was issued by an independent agency. Examples of other important decisions made by independent agencies are numerous.

The point I am trying to make is not that these decisions are bad but that, at least in democratic theory, they ought to be made by officials dependent upon the popular will.[10/] Independence has its highest claim where adjudicatory functions are involved and procedures are

formal; its lowest claim where policy-making is involved and procedures are informal.

There also has been disaffection with the operation of independent regulatory commissions on practical grounds. Study commissions have charged them with lethargy, narrowness of view, with being captives of the industries they regulate. Senator Proxmire recently introduced a bill, S. 3604, to abolish the ICC.

II. Limitations on the Actual Degree of "Independence" of the Independent Commissions from the Executive Branch

Apart from the normative question of how independent the independent regulatory commissions should be, as a matter of plain fact and as a practical response to the need for political integration, there exist many significant limitations on the agencies' actual freedom from Presidential influence and general guidance. Many of these limitations find their basis in congressional authorization or sanction. I should note, however, that many of them would terminate under the provisions of S. 704, The Regulatory Agencies Independence Act now pending in the Senate Government Operations Committee, but not yet brought to the hearing stage.[10a/] Let me review some of the major limitations at present.[11/]

(1) First, there is executive control of the agencies'

budget submissions, as authorized by the Budget and Accounting Act of 1921. 31 U.S.C. 1 et seq. The Act forbids independent agencies to submit their own proposed budgets to Congress (31 U.S.C. 2, 15). It also specifies that the President can make detailed studies of the independent regulatory commissions to determine what changes should be made in the interest of efficiency and economy. 31 U.S.C. 18. Some observers have suggested that the President and his staff have used the Budget and Accounting Act in ways not anticipated by Congress in order to gain control over the independent agencies.[12/] In my view, however, the Act is really no more than an implementing tool to carry out the President's responsibility and duty to see that the laws are faithfully executed.

Congress recently created an exception to the rule that agencies were not to make submissions to Congress on budget matters without going through OMB. The new Consumer Product Safety Commission is required to submit copies of budget and also legislative recommendations to Congress at the time that it sends them to OMB. 15 U.S.C. 2076(k) (Supp. II, 1972). To be sure, Congress, in the last analysis, decides on appropriations. Under the Budget and Accounting Act, Congress has statutory authority to request individual agency recommendations. 31 U.S.C. 15. However, a requirement that all agency requests go to Congress without prior executive

approval raises a major policy question.

The President noted at the time that he signed the Act establishing the Commission that this provision "will tend to weaken budget control * * * and should not be regarded as precedent for future legislation."[13/] It touches that grey area of separation of powers where the Executive can argue that effective control of administration and law execution requires full control of priorities in budget submissions, and Congress can argue that its function of setting national policy goals requires awareness of all expenditure alternatives. Whether the special provision in the Consumer Product Safety Commission legislation will, in fact, become a precedent is something Congress is now considering in deliberating on the proposed Consumer Protection Agency. OMB Director Ash has made the Administration objection clear.[14/]

(2) A second issue has been control of litigation. The Department of Justice and OMB have favored centralization of litigation in the Attorney General. This insures consistency of government positions on similar issues and provides a pool of experienced litigators. Thus Congress has, in Title 28, placed litigation for the United States under

the control of the Attorney General except as otherwise authorized by law. 28 U.S.C. 516-518.[15/] Of course, there always have been a certain number of agencies authorized to litigate certain matters on their own, but normally not in the Supreme Court,[16/] and others who would like to do so.

A vivid recent example is the Alaska Pipeline bill which gives the FTC independence in instituting suits to enforce its subpoenas (thus reversing the Guignon case[17/] which placed enforcement in the Department of Justice), and to seek preliminary injunctions against unfair competitive practices.[18/] However, we do not feel that the new law should be interpreted to permit such independence in cases before the Supreme Court.

The Department of Justice has been sensitive to agency complaints on the handling of their cases. We hope to provide special handling--including greater resources and expedited action--on cases which the agency General Counsels think have special significance.

(3) Third, there is central clearance, through the Office of Management and Budget (formerly the Bureau of the Budget) of all agency proposals for new legislation, and of agency comments on congressional proposals. This practice

dates from the 1930s and the presidency of Franklin D. Roosevelt.[19/]

(4) Fourth, there is the augmentation of Presidential control over the chairmanship of most of the Commissions, and of the Chairman's control over the administration and staffing of the Commission. As a result of the Hoover Commission Report of 1949 and the Landis Report of 1960, and the implementing Reorganization Plans, the President gained the power to designate the Chairman of the major regulatory commissions.[20/] In these instances, although the Chairman as a member cannot be removed from the Commission at will, he serves as Chairman at the pleasure of the President. The Chairman in turn is given substantial authority, independent of the other Commissioners, to run the agency, control workload and priorities, direct the use of agency funds, and the like.

(5) A fifth means of Presidential influence, stemming from the Federal Reports Act of 1942, was recently modified by another rider to the Alaska Pipeline Act of 1973. OMB has had the power since 1942 to approve requests for information sent to multiple recipients. 44 U.S.C. 3501 et seq. The main purpose of the Reports Act was to cut down on

duplicative and unnecessary requests directed to the public. It had been argued, however, that the Act could be used as a device by which investigative activities of the agencies might be hampered.[21] The Pipeline Act has now placed the "independent Federal regulatory agencies" under the Comptroller General, traditionally viewed as an arm of Congress, for the purposes of the Reports Act. P.L. 93-153, § 409. However, the Comptroller General is given only an advisory role and the final decision is made by the agency. 87 Stat. 593.

(6) Sixth, there may be formal, public intervention by Executive departments in agency adjudicative proceedings. The Antitrust Division of the Justice Department has appeared in SEC hearings on whether brokerage commission rates should be fixed, and before the FCC on licence renewals.

(7) Seventh, the agencies are subject, by congressional direction to the personnel policies of the Civil Service Commission,[22] which arguably provides at least some form of executive control. The President may prescribe regulations for the admission of individuals into the Civil Service, and to ascertain the fitness of applicants. 5 U.S.C. 3301.[23]

Part of the executive power over personnel is found in the federal employee security program which applies to all departments and agencies, including the regulatory commissions.[24/]

The extent of control over the personnel of independent agencies has been contested recently by the Consumer Product Safety Commission which opposes the customary White House practice of approving non-career appointments at the Commission. It has now stated that it is willing to submit to such clearance "under protest."[25/]

(8) Eighth, a more controversial area, illuminated by practice if not yet by court ruling, concerns the applicability of the doctrine of Executive privilege to the independent commissions in those aspects of their work which can be denominated executive or administrative, rather than quasi-legislative or quasi-judicial. This matter was aired at some length during the Eisenhower Administration in connection with the nomination of J. Sinclair Armstrong to be Assistant Secretary of the Navy, through the inquiry into his prior testimony on the Dixon-Yates contract when he was chairman of the Securities and Exchange Commission.

Attorney General Brownell took the position that the President's policy statement of 1954 regarding the privileged and confidential nature of certain communications within the Executive branch applied as well to the SEC, except for adjudicatory matters. Thus, he said, SEC officials were not obligated to disclose intra-SEC communications, nor communications between the SEC and others in the Executive branch in respect to administrative matters.[26/]

The issue has been joined again in a proposed amendment to the Freedom of Information Act (H.R. 12462) which would deny the right to independent regulatory agencies to invoke Executive privilege. H.Rep. No. 93-990, p. 16 (April 11, 1974). The Department of Justice has noted the constitutional problems.[27/]

(9) Ninth, even those provisions applicable to certain of the Commissions stating that the President may remove their members only for "inefficiency, neglect of duty, or malfeasance in office,"[28/] confer a power on the President of sorts. Should it become politically feasible for a President to remove a Commissioner by citing an authorized cause, it is still unclear whether the President is required to prove the charge in a factual hearing and what evidence is needed.[29/]

The final outcome of the current suit challenging the removal by Acting Attorney General Bork of Special Prosecutor Cox may illuminate this question indirectly.[30/]

(10) Tenth, delegation to independent agencies has recently been a subject of contention. As the members of this panel from the FCC and the FPC are no doubt aware, Presidents have made delegations to independent commissions without explicit statutory authority. The FPC is authorized by Executive order to issue permits for the construction of gas and electric transmission facilities at the borders of the United States. E.O. 10485 of September 3, 1958. The President has delegated to the FCC his power to issue licenses to land submarine cables in this country. E.O. 10530 of May 10, 1954.

More recently the increased interest in separation of powers produced a debate in a highly comparable situation. In 1971 the President issued an Executive order delegating authority to the Subversive Activities Control Board to hold hearings on whether certain groups should be designated as subversive in connection with the Government's personnel program. A court test attacking the delegation was thrown out on a procedural point. However, the court in dictum

cast doubt on the validity of the delegation, noting that there was "no precedent for a President delegating to an independent, quasi-judicial body far-reaching responsibilities." American Servicemen's Union v. Mitchell, 54 F.R.D. 14 (D.D.C. 1972).

Debate also took place in Congress involving the validity of this delegation and Senator Ervin held hearings on the matter before his Separation of Powers Subcommittee. A proposal by Senator Ervin to deny funds to the Board to carry out the President's delegation was enacted in 1972. P.L. 92-544, § 706.

III. Critique of Various Executive "Levers" on the Independent Commissions.

From the foregoing partial list of recognized and frequently congressionally-authorized Executive levers on the independent commissions--and the list is by no means exhaustive--certain observations can be drawn. The first is pragmatic. As Professor Davis has noted, the growth of the administrative process from the ICC onward was a response of practical men to practical problems.[31/] They were not concerned about democratic theory, or niceties of separation of powers.

Similarly, the various means worked out whereby the Executive may exercise some oversight and policy guidance in respect to the independent commissions is a practical response to the practical problems which would be posed by a totally headless fourth branch of government. There is no need to repeat here all of the arguments of the Hoover Commission,[32/] the Landis Report,[33/] the Redford Report,[34/] the Ash Report,[35/] on the deficiencies of independent commissions. A central theme is the need to balance independence in strictly adjudicative matters with a coordinated policy control, politically responsive to public needs in the admin-

istration of what we now might call the public service state.

It is not at all clear to me that the conceded quasi-legislative functions of some of the independent commissions warrant either their substantial independence from the Executive or their simplistic labelling as "arms of Congress." Many broad quasi-legislative powers are vested within the Executive branch, and there seems to be no manageable criteria for determining when to place some outside the Executive branch. Within the Executive branch these powers actually are more directly subject to responsible political direction, and hence less prone to influence by an alert and carefully nurtured industry clientele, than if they had been placed in independent commissions.

Congressional oversight is not an adequate substitute. Congress is not a managerial instrument. Its genius lies in distilling consensus, not in refining programs into detailed rules. Indeed, it could be argued, although I have no empirical proof, that Congressional oversight may be more effective over agencies within the Executive branch than those outside the control of the Executive branch. Because of centralized executive control in the President, and the many

things the President wants from Congress and the Congress from him, each has chips to play and Congressional oversight can have teeth. In respect to the independent agencies, however, the Congress cannot even threaten to fire the commissioners because it lacks both appointment and removal power, the budget cannot be cut without hurting the clientele, and unless the agency has a major legislative program to sell there are few chips for Congress to play with.

In short, directly contrary to the simplistic lore about independent commissions being "arms of Congress," and impliedly subject to close control, the truth may be that Congress has placed some of the commissions beyond effective Executive control, while providing no substitute short of the oversight which may come from an activist judiciary.

As an aside, I should note here that the analysis I am making may find less receptivity in the era of Watergate, than in times when the Executive is serene and popular, indictment of high-placed figures unthinkable, and impeachment an unknown word. But because of the times it is all the more important to present this analysis. We must not confuse the foibles of men, the correctable foibles of men, with the

vital pyramid of power and values in the institutions they serve and temporarily manage.

In speaking a moment ago of the propriety of independence in strictly adjudicative matters, I used the word "strictly" advisedly. I am concerned lest the public service state become a lawyer's state, with everything judicialized, and thereby undemocratized, if I can coin a term. The Administrative Procedure Act separates rulemaking from adjudication only with difficulty, and there is an increasing tendency to drape rulemaking with all of the hearing formality of adjudication. The long-term beneficiaries of this process can be only the courts, and those interests which the courts at the moment tend to favor. This may be a prescription for a philosopher-king state, but it does little for the democratic process, and converts the taxpayer into a spectator, unless he can afford to become a litigator as well. This latter problem of over-judicialization may affect regulatory bodies within the Executive branch as well as without; however, I think the latter poses the greater danger because of the lessened counter-pressures from the Executive.

A strong counter-thrust, running against all I have been saying and perhaps strengthened by Watergate, is the distrust

of politics, politicians, democracy itself, which is so deeply engrained in the most democratic of all people, the American citizen. The common lore that only that is good which is taken out of politics has long been nurtured by high school history and civics teachers and some journalists. This is the trump card of the independent commission movement.

There presently are bills in Congress for establishing a commission on an independent permanent prosecutor,[36/] an independent Department of Justice,[37/] an independent Federal Elections Commission,[38/] an independent commission to review classified material decisions,[39/] an independent Consumer Protection Agency[40/] with a far-reaching power to intervene in the business of every other governmental agency. The General Accounting Office recently was given authority to enforce certain election laws under the Presidential Election Campaign Fund Act of 1971.[41/]

Such a proliferation of independent agencies removed from immediate popular political control is not the solution to corruption in government. The cure for human error is not radical institutional surgery. As Theodore C. Sorenson put it, in opposing the proposal to place the Department of Justice outside the Executive Branch:

"All the rotten apples should be thrown out. But save the barrel."[42/]

Let us suppose that the independent commission movement had come into full flower before 1932. What could the "New Deal" administration have done if, when it arrived, all major areas--labor, securities regulation, communications regulattion, power regulation, etc.--were wrapped up in independent commissions already, with the membership protected and tilting against the new President? Indeed, because the Federal Trade Commission was wrapped up, the attempt of the President to gain control by removing Commissioner Humphrey led to the famous Humphrey[43/] case and a Supreme Court exegesis on the permissible independence of "quasi-legislative" and "quasi-judicial" bodies.

It is also worth noting that there was nothing non-partisan or apolitical in the activities during the first years of the new commissions created during the New Deal period, the National Labor Relations Board being a particularly good example. They were just as mission-oriented, as cause-oriented as any Executive agency directly inspired by the President.

Another observation thus arises. So far as the first years are concerned, it does not matter whether a regulatory agency is set up inside the Executive branch or as an independent commission, at least in times when politics are normal. It will pursue with vigor the ideals of the appointing authority. It is only in successor administrations that the independence problem arises. From this standpoint, the independent commission is a device whereby the agitated partisans of the present--and they may be very good partisans with very contemporary ideas--may put shackles on the agitated partisans of the future who will face different problems and have different priorities.

Conclusion

Watergate has focused new attention on problems of separation of powers. But I fear that what is developing is an essentially disorganized series of skirmishes over individual issues with relatively little thought as to whether it is truly appropriate that a particular power should reside in a particular place. To be sure, much of our administrative structure has grown as a result of ad hoc improvisation,

validated by the judicial willingness as Justice Jackson put it, to draw "a counterpane over a disordered bed," but this does not relieve us of the duty of seeking optimum solutions. It is one thing to suggest, as I have, that both constitutional precepts and democratic accountability values point toward a presumption against using the independent commission model except in very special circumstances; it is another to devise a set of detailed principles for a better system. What is needed is a broadly focused Separation of Powers Commission to look at these questions systematically for the first time since 1787 and to make recommendations to harmonize our present system with what the Framers intended, democratic theory expects, and the times require.

FOOTNOTES

1/ The Federalist, No. 47.

2/ Article 1, § 1, Article 2, § 1, Article 3, § 1.

3/ See 1 M. Farrand, The Records of the Federal Convention of 1787 (1937 Ed.), 21, 63, 65-66, 226, 244, 292; 2 Farrand at 23, 116, 185, 404-405, 597.

4/ Springer v. Philippine Islands, 277 U.S. 189, 202 (1922).

5/ The principle that the Executive has exclusive power to enforce the criminal law has been reiterated by the courts on many occasions. See e.g., Ponzi v. Fessenden, 258 U.S. 254, 262 (1922); Weisberg v. Department of Justice, No. 71-1026, decided on rehearing en banc October 24, 1973 ("Functions in this area [prosecutorial discretion] belong to the Executive under the Constitution, Article II, Sections 1 and 3 . . . ."); United States v. Cox, 342 F.2d 167, cert. den., 381 U.S. 935 (1965); Parker v. Kennedy, 212 F. Supp. 594, 595 (D.C.C. 1963) (Determinations whether prosecutions should be commenced are within the ambit of the Attorney General's executive discretionary power); Pugach v. Klein, 193 F. Supp. 630 (D.D.C. 1961) ("The prerogative of enforcing the criminal law was vested by the Constitution, not in the Courts, nor in private citizens, but squarely in the executive arm of the government.") See also Nader v. Kleindienst, Civ. No. 243-72 (D.D.C. 1973); and Moses v. Kennedy, 219 F. Supp. 762 (D.D.C. 1963).

6/ Humphrey's Executor v. United States, 295 U.S. 602 (1935).

7/ The dangers of relying on simple dogma are very real. In Humphrey's the Court also said that an agency like the FTC cannot "in any proper sense be characterized as an arm or an eye of the executive." And yet, at the time that the opinion was written, the President was specifically authorized by statute to direct the Commission to investigate and report

facts relating to antitrust violations. 15 U.S.C. 46(d). In a later statute Congress authorized the Attorney General to make a similar request of the FTC. 50 U.S.C. App. 2158(e). In carrying out such functions, the FTC would clearly be acting as "an arm or eye of the executive" notwithstanding the Court's assertions.

8/W. Cary, Politics and the Regulatory Agencies, 7-9 (McGraw-Hill, 1967).

9/39 Fed. Reg. 23325 (June 27, 1974).

10/Insofar as independent agencies exercise quasi-judicial power subject to review in the courts, they do not act contrary to the democratic spirit of the Constitution which recognizes the desirability of judicial decisions made free from the influence of popular passions.

10a/On July 24, 1974 the Department of Justice wrote to the Senate Government Operations Committee voicing its objection to S. 704. The bill, which is quite lengthy, deals with the independence of regulatory agencies in such areas as submission of budget estimates to Congress, legislative recommendations, clearance for obtaining information, control of litigation, and appointment and tenure of agency chairmen and vice chairmen.

11/See E. MacIntyre, "Regulatory Independence: Factual or Fanciful," 115 Cong. Rec. 1835 (1969).

12/Ibid.

13/R. Nixon, Public Papers of the Presidents, 1050 (1972); Regulatory Agencies: Congress Taking a Fresh Look, 3447, 3450 Congressional Quarterly, December 29, 1973.

14/R. E. Cohen, Protection Agency Bill Reaches Crucial Voting Stage, National Journal Reports, June 15, 1974, p. 900.

15/Cf. 3 L. Loss, Securities Regulation, 1881 (2d Ed. 1961).

16/Under existing statutes, some independent regulatory agencies have been granted limited litigation authority. For example, the SEC and the FPC, in addition to possessing subpoena enforcement power, are empowered to bring an action in any federal district court to enjoin practices in violation of its governing

statutes or any of its rules or regulations, 15 U.S.C. 77t(b), 79r; 16 U.S.C. 825m, 825f(c). In the cases of the NLRB and the FHLBB, the litigation authority is couched in much broader terms. NLRB attorneys are authorized to represent the Board "in any case in court", 15 U.S.C. 154, while the FHLBB is authorized "to act in its own name and through its own attorneys" when enforcing its statutes or the rules and regulations promulgated thereunder, 12 U.S.C. 1464(d)(1). Other agencies have generally been granted litigation authority only for use in special, limited situations, e.g., the FTC under 15 U.S.C. 53 may institute proceedings to enjoin the dissemination of false advertising, and the EPA and the CPSC are empowered to bring emergency proceedings to abate imminent hazards to the public health, 42 U.S.C. 1857h-1 (EPA); 15 U.S.C. 2061 (CPSC).

On the other hand, Supreme Court litigation is concentrated in the Solicitor General. One exception is the authority given to the Comptroller General to enforce the Presidential Election Campaign Fund Act of 1971, including review in the Supreme Court. 21 U.S.C. 9010(d). Also, although the statutory basis is not altogether clear, (see 28 U.S.C. 2323), as a matter of practice, the ICC has since 1913 represented itself before the Supreme Court.

17/ F.T.C. v. Guignon, 261 F.Supp. 215 (E.D. Mo. 1967), aff'd, 390 F.2d 323 (8th Cir., 1968).

18/ P.L. 93-153, § 408, 87 Stat. 591.

19/ See MacIntyre, supra, at 115 Cong. Rec. 1836; 3 Loss, supra, at 1880 note 16. The new Consumer Product Safety Commission, however, is required whenever it submits a budget request or a legislative recommendation, testimony or comments to the President or OMB to transmit concurrently a copy of that request or information to Congress, 15 U.S.C. 2076(k).

20/ Designation of Chairman by the President--ICC, 49 U.S.C. 11 and 1969 Reorgan. Plan No. 1, 83 Stat. 859; CAB, 49 U.S.C. 1321(a); FCC, 47 U.S.C. 154(a); FMC, 1961 Reorgan. Plan No. 7

75 Stat. 840; FTC, 15 U.S.C. 41; SEC, 15 U.S.C. 78d(a) and § 3 of 1950 Reorgan. Plan No. 10, 64 Stat. 1265; Bd. of Governors of Federal Reserve System, 12 U.S.C. 241, 242; FPC 16 U.S.C. 792; NLRB, 29 U.S.C. 153(a); AEC, 42 U.S.C. 2031, 2032; FHLBB, 12 U.S.C. 1437(b) and § 3 of 1947 Reorgan. Plan No. 3, 61 Stat. 1954; Consumer Product Safety Commission, 15 U.S.C. 2053(a) Supp. II, 1972).

As a general proposition, no durational or other conditions are attached to such designations. The only exceptions are in the cases of the Federal Power Commission and the Consumer Product Safety Commission in which the designated "chairman shall act as such until the expiration of his term of office," 16 U.S.C. 792, 15 U.S.C. 2053(a) (Supp. II 1972); and the Civil Aeronautics Board where the President designates one of the Board members annually to serve as chairman, 49 U.S.C. 1321 (a).

21/ See E. MacIntyre, supra, at 115 Cong. 1836.

22/ Title 5, which codifies the Civil Service laws, defines Executive agencies to include independent establishments. 5 U.S.C. 105.

23/ The President appoints members of the Commission and designates the Chairman and Vice Chairman. 5 U.S.C. 1101 and 1103.

24/ E.g., E.O. No. 10450, § 1; see Cushman, The Independent Regulatory Commissions, 465.

25/ C. Shifrin, "Agency Quits Fight Over Hiring of Staff," Washington Post, June 22, 1974, p. A2; Regulatory Agencies: Congress Taking a Fresh Look, Congressional Quarterly, December 29, 1973, p. 3450.

26/ Hearings before the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee, 84 Cong., 1st Sess., "Power Policy--Dixon-Yates Contract," pp. 373-379; Kramer and Marcuse, Executive Privilege--A Study of the Period 1953-1960, 695 ff. (1961).

27/ Id. at 13.

28/ Statutes restrict the President's power of removal to stated causes for the following commissions: ICC, CAB, FMC, FTC, NLRB, and the Board of Governors of the Federal Reserve System, Consumer Product Safety Commission (CPSC). With the exception of the NLRB, the Board of Governors of the Federal Reserve System, and the CPSC the President may remove only for "inefficiency, neglect of duty or malfeasance in office." See ICC, 49 U.S.C. 11; CAB, 49 U.S.C. 1321(a)(2); FMC, 46 U.S.C. 1111 and 1961 Reorgan. Plan No. 7, 75 Stat. 840; FTC, 15 U.S.C. 41. In the case of the NLRB and the CPSC, removal is limited to "neglect of duty or malfeasance in office," but with respect to NLRB only after notice andhearing. NLRB, 29 U.S.C. 153(a); CPSC, 15 U.S.C. 2053(a) (Supp. II, 1972). Members of the Board of Governors may be removed "for cause." 12 U.S.C. 242. There are no limitations set forth in the statutes on the President's power to remove members of the FPC, FCC, SEC, FHLBB and AEC. See: FPC, 16 U.S.C. 792; FCC, 47 U.S.C. 151 et seq.; SEC, 15 U.S.C. 78d(a); FHLBB, 12 U.S.C. 1437(b) et seq.; AEC, 42 U.S.C. 2031.

29/ The hearing which President Franklin Roosevelt held involving TVA Commissioner Arthur F. Morgan related to Morgan's refusal to substantiate certain charges he had made against the other commissioners. Removal of a Member of the Tennessee Valley Authority, S.Doc. 155, 75th Cong., 3d Sess., (1938). Upon his refusal to substantiate the charges he was removed, and the President's power was upheld. Morgan v. TVA, 115 F.2d 990 (6th Cir. 1940), cert. den., 312 U.S. 701.

In 1958 President Eisenhower indicated at a press conference that he felt a trial of some kind would be required for the removal of FCC Commissioner Richard A. Mack, but Mack resigned before removal proceedings could be instituted. Public Papers of the Presidents, Dwight D. Eisenhower 1958, p. 185.

30/ See Nader v. Bork, 366 F.Supp. 104 (1973), appeal pending.

31/ K.C.Davis, Administrative Law Treatise, Vol. 1, p. 34 (1958).

32/ Commission on Organization of the Executive Branch of the Government, Task Force Report on Regulatory Commissions (1949).

33/ J.M. Landis, Report on Regulatory Agencies to the President-Elect, Senate Judiciary Committee Print, 86th Cong., 2d Sess. (1960).

34/ Summarized at E. Redford, supra, at 306-312.

35/ The President's Advisory Council on Executive Organization, A New Regulatory Framework: Report on Selected Independent Regulatory Agencies (1971).

36/ S. 2978.

37/ S. 2803.

38/ S. 3044, passed the Senate on April 11, 1974.

39/ S. 3399.

40/ H.R. 13163, passed the House on April 3, 1974.

41/ 26 U.S.C. 9010.

42/ T.C. Sorenson, "Justice Department Reform," Washington Post, June 30, 1974, p. E19, col. 1.

43/ Humphrey's Executor v. United States, 295 U.S. 602 (1935).

AMERICAN BAR ASSOCIATION
DIVISION OF COMMUNICATIONS
[illegible] 50TH STREET, CHICAGO, ILLINOIS 60637, (312) 493-0533

RELEASE: Immediate

CONTACT: Phil Smith
312-493-0533
Jim Chatfield
202-659-1330

ABA BOARD ADOPTS POLICY

ON PRESIDENTIAL PARDONS

CHICAGO, Sept. 20 -- The Board of Governors of the American Bar Association has adopted the following policy position on use of executive pardon for persons connected with the Watergate affair:

"The Board of Governors of the American Bar Association is concerned with the public reaction resulting from the pardon granted to former President Nixon and from reports indicating that consideration may be given to additional pardons.

"The Board of Governors recognizes that the constitutional power of the President to grant pardons is a part of the procedures for the administration of justice and further recognizes that the pardon of former President Nixon could involve considerations not present in other cases. However, the Board believes that one of the lessons of Watergate is the need, in general, for adherence to regular judicial processes.

-more-

"The American Bar Association is committed to the fair, just and impartial application and enforcement of the law. In order to avoid the possible erosion of public respect for law, the Board of Governors of the American Bar Association recommends that, in the absence of extraordinary circumstances involving public interests of great magnitude, the pardon power should not be exercised with respect to any individual until appropriate judicial processes have been followed."

# # #

American Bar Assoc

September 25, 1974

Dear Mr. Fellers:

Thank you very much for your kind letter of September thirteenth, endorsing John W. Cunniskey for the position of Chairman of the Legal Services Corporation.

I sincerely appreciate the fact that you have taken time to fully set forth his qualifications and abilities. I concur in your high commendation of him, based on having been a Law School classmate of his, co-member of the Grand Rapids Bar, and a longtime friend. It is also kind of you to offer your office and the experience of the American Bar Association as we undertake the selection process. Fortunately, we already have recommendations expressed by ones who have been active in the American Bar legal aid studies and support.

Sincerely yours,

Philip W. Buchen
Counsel to the President

Mr. James D. Fellers
American Bar Association
American Bar Center
Chicago, Illinois 60637

ABA Presidents scheduling 11/22/74 (President will be in Japan)

10/22/74

Checked with the Scheduling Office and November 22nd the President will be in Japan -- if plans remain as they are at present.

(Had talked with Mr. Morgan and he had assumed this might be the case; I left word when I had confirmed the information.)

Tuesday 10/22/74

2:15 When Mr. Morgan was here, he asked about the letter to you suggesting the President might consider being the principal speaker at the dinner on November 22 of the American Bar Association's 50th anniversary.

I had a copy I had pulled for my information -- but Rustand's office had not received a request for possible scheduling. I checked through your box and found it still there. (Thought perhaps you glanced and thought it was an invitation for you to attend.)

Would you like it sent on to Rustand for consideration?

(Or, as suggested in the last paragraph of Mr. Morgan's letter, would you want them to write a letter directly to the President.

LEE I. PARK
GERALD D. MORGAN
STANLEY WORTH
EDWARD A. McCABE
K. MARTIN WORTHY
FULLER HOLLOWAY
ARTHUR PETER, JR.
HENRY ROEMER McPHEE
GLENN L. ARCHER, JR.
WM. H. BRADFORD, JR.
JOHN W. PETTIT
JOHN P. BANKSON, JR.
STUART C. WHITE
JOHN G. DeGOOYER
BERNARD T. RENZY
MARK SULLIVAN III
ANTHONY J. THOMPSON
JOHN H. SPELLMAN
A. FAXON HENDERSON, JR.
MICHAEL C. DURNEY
CHARLES M. BRUCE
STEVEN T. HAMBLIN

LAMBERT H. MILLER
COUNSEL

LAW OFFICES

HAMEL, PARK, McCABE & SAUNDERS

1776 F STREET, N. W.

WASHINGTON, D. C. 20006

TELEPHONE (202) 785-1234

CHARLES D. HAMEL
1881-1970

BENJ. H. SAUNDERS
1894-1973

IN CHICAGO, ILLINOIS 60603
HAMEL, PARK & SAUNDERS
111 WEST MONROE STREET
TELEPHONE (312) 346-3827

JOHN ENRIETTO (RESIDENT PARTNER)

Morgan
Gerald C

October 8, 1974

Philip Buchen, Esq.
The White House
Washington, D. C.

Dear Phil:

On Friday evening, November 22, the Section of Taxation of the American Bar Association will sponsor a dinner to honor the Tax Court on that Court's 50th Anniversary. The dinner is also being held in connection with ceremonies earlier in the day, sponsored by the Court itself, on the occasion of its moving into the new Tax Court Building in the judicial center of Washington.

As you know, the Tax Court is one of the few Federal courts having Nationwide jurisdiction. It is also the largest single Federal trial court, if not the largest trial court of record of any kind in the United States, handling over 10,000 cases per year. Although originally established as a part of the Executive Branch, it was formally recognized by the Congress in 1969 as a part of the Judiciary, and over the 50 years of its existence it has attained increasing stature by reason of its outstanding work.

Is there any possibility that the President would be willing to be the principal speaker at the dinner on November 22? The Chairman of the Section of Taxation of ABA has asked me to inquire, and to extend the President an invitation.

The Tax Section anticipates the presence at the dinner of several hundred lawyers and judges from across the country. The exact hour has not been fixed, and this can easily be adjusted to suit the President's convenience. The Tax Section hopes that the President will do it the honor of accepting the invitation.

If you can find out if there is any possibility of the President's doing this, we will write him directly.

Sincerely,

Jerry

Gerald D. Morgan

GDM/bm

ABA

Thursday 11/7/74

Meeting
11/22/74
11:30 a.m.

3:20 A meeting has been scheduled with the following people on Friday 11/22 at11:30 a.m.:

659-1330

Mr. Areeda
James Fellers, President
Laurence Walsh, President-Elect
Herbert Hoffman

ABA

December 16, 1974

TO: Paul Theis

FROM: Phil Buchen

I trust the original of this letter has been sent to you and you have the matter in hand. However, I send you my duplicate copy in case the matter has not otherwise come to your attention.

If you desire any assistance from our office, please let me know.

Attachment

PWBuchen:ed

AMERICAN BAR ASSOCIATION

OFFICE OF THE PRESIDENT
JAMES D. FELLERS
AMERICAN BAR CENTER
CHICAGO, ILLINOIS 60637
TELEPHONE: 312/493-0533

November 15, 1974

Honorable Gerald R. Ford
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

Next year will mark the 18th annual nationwide observance of [redacted] and the beginning of the nation's Bicentennial celebrations which will extend to the end of December, 1976.

LAW DAY '75 will be directed toward implementation of the following selected theme:

America's Goal — Justice Through Law

More than 2,000 LAW DAY chairmen, representing some 700 bar associations, propose to demonstrate, through the presentation of appropriate programs, how the ideal of equal justice is succeeding and what needs to be done to strengthen the legal process.

In support of their efforts would you please issue the official LAW DAY proclamation as requested by Joint Resolution of Congress adopted in 1966. We ask that the proclamation be put out during January, 1975, to allow the time necessary for its widespread distribution by this Association very early in the new year.

A draft of a proposed proclamation is enclosed -- only for convenience and as a suggestion of the type of proclamation that has been customary.

Permit me to thank you in advance for your consideration of this request.

JDF:
Encl.

Sincerely yours,

James D. Fellers

THE WHITE HOUSE

WASHINGTON

1/10/75

TO:

Mr. Buchen
Mr. Areeda
Mr. Lazarus
Mr. Chapman
Mr. French
Mr. Roth

FROM: Bill Casselman

FYI

Note to Casselman
Please handle

District of Columbia Chapter

FEDERAL BAR ASSOCIATION

(202) 63
1815 H STREET, N.W., WASHINGTON, D.C.

January 9, 1975

Dear Mr. Casselman:

The District of Columbia Chapter is embarking upon a campaign to acquaint attorneys in the Federal service of the advantages of membership in the Federal Bar Association and to promote their becoming members.

The benefits inuring to such membership are many. Participation in FBA activities affords an opportunity to meet attorneys in other agencies or in private practice and to hear distinguished speakers on matters of interest to Federal lawyers. This helps to stimulate interest in current ideas in the law and to keep us abreast of modern thinking in the field of jurisprudence. Members may serve on any of the numerous committees concerned with various fields of law, as well as take part in programs sponsored by the Association related to community and public service projects. There are also the practical benefits of an excellent group insurance program, as well as attractive low cost travel arrangements for FBA groups.

We are seeking to enlist your cooperation in this campaign by asking if you will circulate a memorandum among the members of your legal staff inviting their attention to the Federal Bar Association and the benefits to be derived from membership in the Association. There is enclosed a suggested memorandum to be used for this purpose.

It is with the view of strengthening the FBA and the position of the Federal lawyers that we seek your assistance.

Sincerely yours,

L. Barry Costilo

L. Barry Costilo
President

Enclosure

SUGGESTED MEMORANDUM FOR DISTRIBUTION AMONG
ATTORNEYS IN YOUR AGENCY

DATE

SUBJECT: Membership in the Federal Bar Association

TO: All Attorneys

The District of Columbia Chapter of the Federal Bar Association is now conducting a campaign to acquaint attorneys in the Federal service with the advantages of membership in the Federal Bar Association and to promote their becoming members. I invite your consideration of the benefits to be derived from such membership.

The Association is composed of attorneys who are now, or who have been, in the Federal service. Participation in FBA activities affords an opportunity to meet attorneys in other agencies or in private practice and to hear distinguished speakers on matters of interest to Federal lawyers, which helps to stimulate interest in current ideas in the law and to keep us abreast of modern thinking in the field of jurisprudence. Members may serve on any of the numerous committees concerned with various fields of law, as well as take part in programs sponsored by the Association related to community and public service projects. There are also the practical benefits of a group insurance programs, as well as low cost travel arrangements for FBA groups.

Additional information with respect to membership in the Federal Bar Association may be obtained by calling the Association's office at 638-0252 or by contacting the FBA representative in this agency.

AB
General Counsel

ABA

THE WHITE HOUSE

WASHINGTON

February 10, 1975

MEMORANDUM FOR: PHILIP BUCHEN

FROM: WARREN RUSTAND *WR*

SUBJECT: American Bar Association
Annual Meeting - August 7-14 in Montreal

Regarding the attached letter from American Bar Association President James Fellers, it is too late to schedule the President's appearance at the ABA Midyear Conference in Chicago later this month.

I would appreciate your comments and recommendations on the President addressing the 1975 Annual Meeting in Montreal. Also attached is a copy of a NSC memo on the desirability of the President addressing a meeting of a U.S. organization on a domestic issue when that meeting is being held in a foreign country.

Knowing the NSC's feeling about this, would you still recommend that the President participate in this meeting.

No, for I share the concerns of NSC.

P.W.B.

Thank you.

AMERICAN BAR ASSOCIATION

OFFICE OF THE PRESIDENT
JAMES D. FELLERS
AMERICAN BAR CENTER
CHICAGO, ILLINOIS 60637
TELEPHONE: 312/493-0533

February 5, 1975

The President
The White House
Washington, D.C.

Dear Mr. President:

It is my great pleasure and privilege as President of the American Bar Association to invite you to speak to the members of the largest voluntary professional association in the world.

Because of the very great pressures on your time and in accordance with my conversations with your Appointments Secretary since early in December, I wish to make our invitation as flexible and open as possible. The Association holds two major meetings each year. Our 1975 Midyear Meeting will be held at the Palmer House in Chicago from Saturday, February 22 to Tuesday, February 25. The Midyear Meeting is primarily a business meeting and will be attended by approximately 1500 representatives of the almost 200,000 members of the ABA. It generally receives considerable media and press attention. A special program has been planned for Sunday afternoon, February 23. The Chief Justice is scheduled to speak and several thousand Chicago lawyers have been invited. This might provide the best forum for you.

The 1975 Annual Meeting will be held in Montreal, Canada, from August 7 to August 14. Our traditional opening assembly will take place on Monday morning, August 11. I have extended an invitation to Prime Minister Trudeau to address us at that time. If it is consistent with protocol and the objectives of the administration, we would be most pleased if you would share the platform with the Prime Minister. Alternatives would include our business assembly on Wednesday morning, August 13, and major luncheons to be held on the 11, 12 and 13. In addition, we would, of course, be pleased to arrange a special assembly for any time during the week of the Annual Meeting which suited your convenience The Annual Meeting will be attended by approximately 7500 lawyers, most of them accompanied by their families.

Although we certainly understood well the necessity of your cancelling your appearance before our Annual Meeting last year in Honolulu, we were nonetheless disappointed. We hope that this year we will have the opportunity and the honor of receiving your address. We know you appreciate the desirability of formulating our plans as early as possible.

Sincerely yours,

James D. Fellers

James D. Fellers

JDF/sco

NATIONAL SECURITY COUNCIL 73

ACTION
T/D
SCHEDULE BD.
DATE RECEIVED
JAN 10 1975
MESSAGE
SPEAKERS BUREAU
OTHER

January 8, 1975

MEMORANDUM FOR: WARREN RUSTAND PRESIDENT OFFICE

FROM: Jeanne W. Davis

SUBJECT: Presidential Appearances Abroad Before U.S. Organizations

You have asked for our views on the desirability of the President's addressing a meeting of a purely U.S. organization on a domestic issue when that meeting is being held in a foreign country.

We are aware of no previous occasion when a President has travelled outside the U.S. with this as his sole or even primary purpose. On occasion, when a President has been on an official visit as Chief of State to a foreign country, he has agreed to meet with an American group such as the American Chamber of Commerce in that country, but these meetings have been peripheral to the primary purpose of the visit.

It would be difficult for the President to travel abroad in a purely domestic capacity without some official recognition by the host government. Even with such a close friend as Canada, and the fact that he would not be in the capital city, this might prove awkward. Indeed, a visit to Montreal, when he has not paid an official visit to Ottawa, might disconcert the Canadians, given the issue of French separatism.

Also, the practice of U.S. organizations holding conventions outside the country has sometimes been criticized as expensive junketeering. It is possible that some of this criticism might be transferred to the President, should he decide to travel outside the country for this purpose.

on Obscenity; Paul J. McCready, Attorney at Law; Homer L. Young, F.D.I. Retired.

ABA

(See Personnel Judgeships)

THE WHITE HOUSE

WASHINGTON

March 19, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: PHIL BUCHEN

FROM: KEN LAZARUS

SUBJECT: Meskill Nomination

I have reviewed the entire FBI report which was submitted to the Attorney General in response to the inquiries made by the Senate Judiciary Committee relative to Governor Meskill's nomination. In my opinion there is nothing contained in this report which should preclude the appointment of Meskill to the Second Circuit. Indeed, on balance, I believe the investigation supports the testimony of Governor Meskill in those instances where conflicts arose with the testimony presented by State Senator George Gunther. There is simply no evidence that Meskill committed any improprieties relative to the various leases under consideration.

It is my understanding that General Levi intends to forward the report to Chairman Eastland today without comment. Although his inclination at this point in time is to attempt to avoid any comment whatsoever on the investigation, if pressed by the Committee he will consider the possibility of making a very limited comment on the report such as that noted above, viz. "There is nothing in the report to preclude the appointment of Governor Meskill."

It is my opinion that this nomination should not have been made at the outset. I say this not because the ABA is infallible in its evaluations of candidates for the bench, but because the current system which in effect requires ABA endorsement has elevated the level of the federal judiciary. However, the nomination having been made, there are two reasons for continuing the Administration's strong support for Governor Meskill. First, he has become a pawn in an ABA power play and at this point in time his personal integrity is on the line. Second, if the President is defeated on this nomination it will become an unfortunate political item to be used against him in the next election. For these reasons, I should think that the Attorney General would see

fit to comment in a limited way on the outcome of this investigation to the extent noted above. Such a comment would have political utility within the Senate Judiciary Committee where there is currently a 7-7 split on Meskill with Senator Mathias as a swing vote. It also might be useful for someone in the Administration to smooth the feathers of Judge Walsh by indicating that the President intends to have the ABA play a substantial role in the selection of nominees to the federal bench.

Although responsible men can disagree over the qualifications of Governor Meskill, it should be clear that this nomination is not hinged on substantial questions of impropriety.

ABA

John C. Bennett

April 26, 1975

To: Dudley Chapman

From: Eva

Attached are copies of previous exchanges of telephone calls from John C. Bennett.

His most recent call suggested this new route by which to accomplish his purpose -- so I suggested he write a letter and we could see to whom we should refer his information.

ABA

TELEPHONE: 377-1086

JOHN C. BENNETT
CERTIFIED PUBLIC ACCOUNTANT

2245 CHAMBWOOD DRIVE
P. O. BOX 9082
CHARLOTTE, NORTH CAROLINA 28205

April 24, 1975

Hon. Phillip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Sir: Referring to our recent exchange of calls and correspondence:

The decision of the Justice Department that they have a conflict in their duties in trying to do justice in this case, confirms my belief that relief lies in the Executive Department exclusively.

I believe it would be in the government's interest and the public interest to make a grant through the National Science Foundation or some other similar agency to finance an independent report on this case. By independent report, I mean a report along the standards required of corporation financial report by the S. E. C. , outlining without prejudice the position of the profession of law practice in this country's operation. In 1933 Congress realized that in order to get the public to support business by mass investment in private enterprise, it would be necessary to rely on the accounting profession to simply tell the truth about the financial positions of big companies, and let the public weigh this information and invest according to their judgment. The result was a sensational success--the economic history of the United States since 1933 has been a portrayal of what can be achieved by mass public support of legitimate business--from widows and orphans to amateur speculators to organized big business in making investments. The key to this success has been independent reports by C.P.A.'s laying the cards on the table.

What I propose to do is roughly the same thing in law and justice that was achieved in business and financial circles. I will mention one specific example which is typical of the case: The Supreme Court has leaned over backward to guarantee due process of law to a bootlegger (Lipke vs. Lederer 259-US-557), while leaning the other way to rule that the need for public revenue justifies suspension of due process in numerous cases concerning Sect. 7421(a). Actually 7421(a) is unconstitutional prima facie. This country has a tradition for maintaining due process come hell or high water (see Milligan and Merryman during Civil War). A very important point to make in this respect that suspension of due process to make revenue collection more efficient has exactly the opposite effect, because it gives the legal profession a foothold to obstruct revenue collection which would otherwise be made through simple due process of law. That is the main lesson from my case. On this one point, there are literally billions of dollars in public revenue at stake every year. Courthouses all over the country are loaded with tax liens that have never been collected, but which could be collected, if the Internal Revenue would proceed with due process of law.

I propose simply that I be awarded a grant of $50,000 to prepare a full length independent auditor's type report along S.E.C. lines without sentiment or editorial comments about law practice and the effect on government.

TELEPHONE: 377-1086

JOHN C. BENNETT
CERTIFIED PUBLIC ACCOUNTANT

2245 CHAMBWOOD DRIVE
P. O. BOX 9082
CHARLOTTE, NORTH CAROLINA 28205

It would be more or less a continuation of the The Federalist, which as you know was the combined work of John Jay, James Madison, and Alexander Hamilton.

Those gentlemen did a good job of selling the constitution to the public in 1787, but they stopped short when they had gotten what they wanted--ratification of the constitution. What has long been needed is a report of how it worked after it was put into operation.

This report would be addressed to whatever agency is determined to have jurisdiction, and would be privileged, subjedt to judgment of the executive officer.

The subject is so broad and comprehensive that WITHOUT going into details. I will take up some space at this point to say that it would grossly unfair to single out any one prospective attorney for me. The other lawyers would hound him to death so he could not practice law at all. I have to be careful not to be seen visiting any lawyer's office to spare the lawyer this ordeal; no matter what the nature of my visit is, other lawyers conclude that the lawyer I visit or talk to in public is taking my case, and the lawyer is hounded with questions for days afterward.

The key issue now before the Supreme Court, I believe, is that the case generates questions of propriety in bar and court communications, about which lawyers and judges have a mutual interest and should be encouraged to communicate, they should also communicate with the principal--me, and that is what the courts have neglected to do.

The Supreme Court will act on this issue one way or the other on what is now before them, and the result cannot be predicted at this time--they may WAIT until they get a better case.

All I did was to make recommendations to my clients to observe the letter of the law, which clashed with bar principles which lawyers honestly and sincerely believe in, and therein lies the present state of affairs.

I believe it will be in the public interest for the government to support a factual report on the principles involved--there is never any excuse to suspend due process, and it is more profitable for the taxpayers to maintain due process come hell or high water.

It would not be incorrect to say that I am prejudiced. However, I am still a C.P.A. dedicated to reporting the facts. You might say that I am like the Irish in World War II--(and the U.S.Navy in 1940)--I am neutral on the side of due process.

I mention a grant under the National Science Foundation--that is only one possibility. There are undoubtedly other possibilities within your jurisdiction.

I appreciate your consideration.

Sincerely,

John C. Bennett

John C. Bennett

Thursday 3/13/75

4:20 John Bennett called.

I suggested he talk with Dudley Chapman; checked with Chapman and he said it was a matter for the Justice Dept.

Mr. Bennett said he had talked at length with Mark Grunwald in Justice.

He said he could sum up on a page what he felt should be done. I suggested he do that and send it to Leon Ulman at Justice, and send a copy to Mr. Buchen.

He plans to do that.

Bennett, John

THE WHITE HOUSE
WASHINGTON 2/13/75

Refer this to Leon Ulman at Justice - by phone call to him, giving him Ulman's number. D.C.

202-739-2051

2/17

Eva,

Referred to Bennett to Justice.

Nancy

sent to Dudley Chapman at suggestion Burt Bucher — Bennett John

Tuesday 2/11/75

11:20 John Bennett called from Charlotte, N. C. (704) 377-1086

He indicates that on the record of the Supreme Court right now there is a question about Article 3 of the Constitution and the 10th amendment.

He said he expects they will put it on the official hearing docket whether or not regulation of law practice belongs under Article 3 or the 10th amendment. On that subject he has written a January 4 letter probably in Correspondence somewhere outling the details of this.

It is a broad subject and very important. In order to get permission to bring this before the Supreme Court officially, he said he has had to take a lot of punishment.

He said that for the last 200 years all lawyers in practice are regulated at the state level. According to his position, he has arrived at after a long punishment which has been very debilitating--question arises which will be presented to the Supreme Court in the regular course of business whether or not the Supreme Court should take jurisdiction over law practice under article 3. Law practice has been regulated by the American Bar Association, which is a private concern -- not official. W/ Question whether any court in the United States can tell the bar association that you're practicing law illegally. That question has not been brought up -- they assume that the Constitutional Convention intended the law practice to be at the state level. According to the Articles of Confederation was to centralize control over law. Otherwise the union wouldn't have any power. You're getting into position that I can present this position to the Supreme Court.
Said he has had to undergo 25 years of a criminal trial , which you might say is the longest on record. Whole generation of lawyers has gone by and the bar association at the national level and state level consider him their mortal enemy because they want to keep it at the state level.

He said the Chief Justice has expressed himself that it ought to be at the national level and should be on the order of the English standard. Mr. Bennett indicates he has the case that will give the Chief Justice what will be needed.
He said in taking the punishment, he's had a "hell of a licking."

Would like to talk with someone about this.

April 30, 1975

Letters attaching copies of the President's proclamation concerning Law Day, USA 1975 were sent to the following:

The Honorable Harold R. Tyler
Deputy Attorney General

The Honorable Edward H. Levi
Attorney General

The Honorable Edward Hutchinson
House of Representatives

The Honorable Peter Rodino, Jr.
House of Representatives

The Honorable Roman L. Hruska
United States Senate

The Honorable James O. Eastland
United States Senate

THE WHITE HOUSE

WASHINGTON

April 30, 1975

Dear Harold:

On behalf of the President, I am sending you a copy of his proclamation concerning Law Day, U.S.A., 1975.

You will be gratified, I am sure, that the President has taken this action to encourage recognition of the need for reaffirming the devotion of the American people to our system of law and justice.

Sincerely,

Philip W. Buchen
Counsel to the President

The Honorable Harold R. Tyler
Deputy Attorney General
Department of Justice
Washington, D.C. 20530

Enclosure

THE WHITE HOUSE

WASHINGTON

March 31, 1975

MEMORANDUM FOR: ROD HILLS
BILL CASSELMAN

FROM: PHILIP BUCHEN P.W.B.

SUBJECT: Law Day -- May 1, 1975

The Scheduling Office has asked me whether our office would propose a luncheon meeting by the President in recognition of this day to which would be invited the Chief Justice, President of the American Bar Association, and such other jurists and lawyers as we may propose up to a reasonably small number.

Please let me have your thoughts and suggestions.

AMERICAN BAR ASSOCIATION
CENTER FOR ADMINISTRATIVE JUSTICE
1785 MASSACHUSETTS AVE., N.W. • WASHINGTON, D.C. 20036 • (202) 797-7050

A34

May 29, 1975

Dear Sir:

Because our first offering of a seminar on "Legal Drafting Techniques" was so heavily oversubscribed and well received, we are offering it again this fall, beginning September 23, 1975.

Enclosed are materials describing the nature of the course, its faculty, schedule and admission application form. Also appended is a syllabus. The faculty will be supplemented by specialists in the particular area under consideration. They will be attorneys and law professors of the highest professional caliber.

Sincerely,

Milton M. Carrow

Milton M. Carrow

Enclosures

ABA

July 24, 1975

I send my warmest greetings to the members of the American Bar Association as you hold your Ninety-Eighth Annual Meeting.

As we approach the celebration of our Bicentennial, you can reflect with pride on the fact that members of your profession played such a key role in the Revolutionary Era that led to our independence and to the formation of our democratic system of government. You can also take great satisfaction from the important leadership you have provided as an organization in our national growth and development for nearly half of our country's history.

Heartened by your inspiring record of public service, your fellow citizens look to your wisdom and experience in helping to overcome the even more complex problems presently before our modern state and Federal legal systems. I am sure that in the course of these sessions you will have the opportunity to examine the challenges we face and to propose concrete ways of dealing with them. I know that the results of your deliberations will do much to advance the national goals we share, and that this valuable exchange of ideas will further enhance the contributions of your profession to the well-being of our society.

Sent to: (Air Mail - Special Delivery)
Mr. James D. Fellers
President
American Bar Association
1155 East 60th Street
Chicago, Illinois 60037

GRF:Hasek:jmc
cc: D.E. Downton/R. Nessen/P. Buchen(FYI)/E. Hasek/CF
EVENT: AUGUST 11 (Montreal)
Requested by Organization

THE AMERICAN BAR ASSOCIATION

ANNOUNCES THE REMOVAL OF ITS WASHINGTON OFFICES

TO

1800 M STREET, NORTHWEST

WASHINGTON, D. C. 20036

ON OR ABOUT
AUGUST 1, 1975

(202) 331-2200

THE WHITE HOUSE

WASHINGTON

August 12, 1975

MEMORANDUM FOR: JAMES SCHLESINGER
BRENT SCOWCROFT
JIM CONNOR
RODERICK HILLS
JIM WILDEROTTER

FROM: PHILIP BUCHEN P.W.B.

Recently I sent you pages 11-18 of an address prepared by Attorney General Levi to be delivered before the American Bar Association on August 13. This is the portion of the address which deals with warrantless electronic surveillance, but I neglected to designate the source of the material I sent you. So that you may have the complete address, I am attaching a copy of the full text.

Attachment

AMERICAN BAR ASSOCIATION

OFFICE OF THE PRESIDENT
LAWRENCE E. WALSH
AMERICAN BAR CENTER
CHICAGO, ILLINOIS 60637
TELEPHONE: 312 / 947-4042

September 29, 1975

TO: Participants in the Common Faith and Common Law Program

FROM: Lawrence E. Walsh

I thought it might be useful to summarize our plans, as of this date, with respect to the "Common Faith and Common Law" program which will be part of the 1976 Annual Meeting of the American Bar Association. The meeting will be held in Atlanta, Georgia, from August 7 to August 13, 1976.

In working with a number of individuals in designing the substantive aspect of the 1976 Annual Meeting, I have directed our efforts at three basic goals. First, I believe that our meeting should be of the highest professional quality. The ABA Annual Meeting is one of the principal events in which the legal profession of the United States, in a collective sense, is thrust into the public view. It represents an opportunity to reassert our position as a learned profession, characterized by serious purpose and dignity.

Second, the two hundredth anniversary of the political independence of the United States is an appropriate time to reflect on the contribution of lawyers to the formation of the nation as well as the traditions we share with our English brothers. Increasingly, historians are coming to appreciate that although the American Revolution brought about political separation, the ideological foundations of our liberty rests in the common law. Our national independence is closely bound up with our interdependence with the British peoples and our shared concepts of law and fairness. It is my hope that the programatic content of the Annual Meeting will reflect these ideas.

Third, the two themes of our common heritage of beliefs and of our divergent institutional development through two hundred years of political separation offer an exceptional opportunity to develop useful comparative insights into a number of very contemporary problems which result from the application of law to modern urban society. The exploration of this comparative analysis may increase our capacity to cope with those problems.

To implement these plans, the Association has asked Harry W. Jones, the Cardozo Professor of Jurisprudence at Columbia University Law School to direct a program of scholarly research and to edit the papers so produced. Professor Jones has made considerable progress in contacting and engaging scholars as well as refining the details of the entire program.

For convenience, the papers commissioned to examine the historical aspects of the total study have been designated as Part I papers while those emphasizing the comparative aspects of contemporary topics have been labeled Part II papers.

The specific topics and authors of Part I papers are:

The Legal Profession in the United States on the Eve of the Revolution - Richard B. Morris

The Colonies, Parliament and the Crown - the Constitutional Issue - Philip B. Kurland

The Declaration of Independence - Julian P. Boyd

The Reception of the Common Law in the United States - Harry W. Jones

In addition, Professor Jones will provide introductory material on the rule of law from the British and American point of view.

With the gracious assistance of the Bar Council and the Law Society, the following have been selected to prepare Part II papers for the topics indicated:

The Role of the Courts in Contemporary Society
The Honorable Mr. Justice Templeman
The Honorable Roger J. Trayner

The Legal Profession: Organization, Discipline and Professional Responsibility
Peter Webster, Q.C.
John Bowron, Esquire
The Honorable Erwin N. Griswold

Litigation Today: Cost, Delay and Other Problems
Andrew Leggatt, Q.C.
Max Williams, Esquire
Professor Maurice Rosenberg

The Press and the Law
David Hirat, Q.C.
Lord Goodman
Edward L. Barrett, Jr.

Security, Fairness and Regularity in Administrative Proceedings
John Vinelott, Q.C.
Professor Jerre S. Williams

Central Problems of Criminal Justice
Richard Du Cann, Q.C.
David Napley, Esquire
Professor Francis A. Allen

The Lord Chief Justice, the Lord Chancellor, the Master of the Rolls and the Attorney-General have indicated their interest in participating in the program. In addition a number of distinguished barristers and solicitors will also be present and involved.

The largest part of the Annual Meeting programming is undertaken by the sections of the Association. Several sections have indicated interest in having the Association's British guests participate in their respective programs. The Association will encourage and support this effort.

While the final schedule is not set, considerable preliminary thinking has taken place and a tentative schedule has been proposed. Under the tentative schedule, the first major event in the "Common Faith and Common Law" program will take place on the afternoon of Saturday, August 7. The Part I papers will be presented at that time.

On Sunday morning, August 8, the Association will hold its traditional Prayer Breakfast. On Sunday afternoon, the principal ceremonial event will take place. It will be a special cathedral ceremony in which it is hoped the leaders of the British Judiciary and their American counterparts will participate.

The Opening Assembly will be held on Monday morning, August 9. An Assembly Luncheon will follow at which the Lord Chief Justice is tentatively scheduled to speak. The first session devoted to Part II papers will be held on Monday afternoon with additional sessions on Tuesday morning and afternoon and on Wednesday afternoon. Assembly luncheons will be held on Tuesday and Wednesday and the Business Assembly will take place Wednesday morning.

The Annual Dinner of the Association will take place Wednesday evening. The Lord Chancellor has agreed to speak.

The lawyers of Atlanta through the Atlanta Host Committee have offered their homes for the accommodation of our British guests. In addition, on Monday night arrangements are being made for a number of private dinners which will give our guests and our Atlanta hosts the opportunity to share an evening.

I am pleased with our progress to date and appreciate the efforts of all who have contributed to this effort.

LEW/cm

ABA

October 1, 1975

Dear Judge Walsh:

Philip Buchen forwarded, together with his own personal endorsement, your invitation to the President to appear before the Annual Meeting of the American Bar Associatinn which will be held in Atlanta, August 5-11, preferably on August 9.

The President was pleased to have this opportunity but it is not possible to make a commitment to you at present due to the many variables in the President's schedule for next year. We will carry it forward for careful consideration at the final determination of the August 1976 calendar. In the meantime, please be assured of the President's deep appreciation for your thoughtfulness.

Sincerely,

Warren S. Rustand
Appointments Secretary
to the President

The Honorable Lawrence E. Walsh
President
American Bar Association
1155 East 60th
Chicago, Illinois 60637

cc: Phil Buchen
2 cys Nancy Gemmell.
cc & enc. to Mary Hickner
WSR:rg

THE WHITE HOUSE

WASHINGTON

February 6, 1976

MEMORANDUM FOR: WILLIAM NICHOLSON

THROUGH: PHIL BUCHEN

FROM: KEN LAZARUS

SUBJECT: Invitation to the President to address Federal Bar Association annual convention September 15-17

This is in response to your memorandum of January 19 forwarding an invitation to the President to address the annual convention of the Federal Bar Association on September 15-17 in Washington.

Within the legal community, the Federal Bar Association is a third or fourth echelon bar association which would normally not command the attendance of the President. However, if there would be some political utility in the President's appearance, we would have no objection.

ABA

(Piliero, Daniel J.)

THE WHITE HOUSE

WASHINGTON

April 3, 1976

Dear Mr. Piliero:

As you requested, I have finally been able to obtain from the White House Photographic Office prints of the photograph taken when you and Mr. Ide were here on Friday, March 5, to deliver a copy of your Summary Report on the Volunteer Disaster Assistance Provided by the Young Lawyers Section of the American Bar Association.

You and the Section of Young Lawyers are to be commended on the admirable work you are doing. I very much appreciated meeting you and receiving the report on your program.

I wish you much success for the future and send my best regards.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

Mr. Daniel J. Piliero, II
Chairman-Elect
Young Lawyers Section
American Bar Association
500 North Capitol Street
Washington, D. C. 20549

ABA

THE WHITE HOUSE

WASHINGTON

March 30, 1976

Dear Ed:

The President has asked me to express to you, the Chief Justice, the Chairman of the State Chief Justices and the American Bar Association his sincere regrets that he will not be able to attend the Conference on the Causes of Popular Dissatisfaction With the Administration of Justice.

I am hopeful that my schedule will permit my attendance at the Conference. At present, my plans are to be in St. Paul on April 8 and 9, and I look forward to seeing you again at that time.

Sincerely,

Philip W. Buchen
Counsel to the President

Mr. Lawrence E. Walsh
President
American Bar Association
One Chase Manhattan Plaza
New York, New York 10005

see PWB trip 8/8-10/76 + Pres. Messages

THE WHITE HOUSE

WASHINGTON

August 6, 1976

To you -- Judge Walsh, fellow members of the American Bar Association, and distinguished guests -- I send warmest greetings and best wishes on the occasion of this 1976 Annual Meeting.

The function of the law in our nation depends not only upon the devotion and skills of lawyers but on the strength and breadth of belief in the law itself. Our system of government is based upon belief in the law as the keeper of domestic tranquility, the guardian of personal liberties, and the defender of equal justice for all.

Although the Declaration of Independence has already been given wide attention during this Bicentennial year, not enough attention has been given to features of this historic document that demonstrate how deeply the founders of our nation felt about the need for a system of law in which people could have faith.

The system of law that evolved from their debate was not a departure from the legal traditions of the nation against which the American colonists were revolting. Despite their stinging repudiation of the British Crown, the framers of the Declaration did not condemn the English common law or the laws which were in effect to govern the affairs of the thirteen American colonies. Rather, they condemned the failures and weaknesses of the Crown-appointed judges in America to administer the common law. They objected to the refusal of King George III to let legislators and governors of the colonies adopt additional laws "wholesome and necessary for the public good."

2

Once these imperial obstacles to the administration of justice and to the orderly process of lawmaking were removed, the Americans of two centuries ago put their faith in a legal system that even today has much in common with English law.

It is most appropriate for the ABA to have chosen "Common Faith and Common Law" as the theme for this meeting. The theme speaks of our faith in the Anglo-American system of law and justice which we have long shared with our British counterparts.

I commend the American Bar Association for its continuing efforts to improve the standards and advance the competence of the legal community. These efforts serve well to build public trust in the legal profession and thereby strengthen the common faith in our system of law and justice.

Gerald R. Ford

August 7, 1976

MEMORANDUM FOR: MR. HARTMANN'S OFFICE

FROM: EVA DAUGHTREY

As we discussed, Mr. Buchen has O.K.'d the changes made by Mr. Hartmann and would appreciate it if this could be finalized and signed by the autopen.

He will be going to Atlanta tomorrow for the ABA meeting and will plan to take the President's message with him to read, so it would be appreciated if we could have the message returned to us as soon as possible.

Thanks so much.

DRAFT PRESIDENTIAL STATEMENT TO BE READ AT THE 1976 AMERICAN BAR ASSOCIATION MEETING, AUGUST 9, 1976

To you -- Judge Walsh, fellow members of the American Bar Association, and distinguished guests -- I send warmest greetings and best wishes on the occasion of this 1976 Annual Meeting.

The function of the law in our nation depends not only upon the devotion and skills of lawyers but on the strength and breadth of belief in the law itself. Our system of government is based upon belief in the law as the keeper of domestic tranquility, the guardian of personal liberties, and the defender of equal justice for all.

Although the Declaration of Independence has already been given wide attention during this Bicentennial year, not enough attention has been given to features of this historic document that demonstrate how deeply the founders of our nation felt about the need for a system of law in which people could have faith.

The system of law that evolved was not a departure from the legal traditions of the nation from which the American colonists were revolting. Despite their stinging repudiation of the British Crown, the framers of the Declaration did not condemn the English common law or the laws which were in effect to govern the affairs of the thirteen American colonies. Rather, they condemned the failures and weaknesses of the Crown-appointed judges in America to administer the common law.

They objected to the refusal of King George III to let legislators and governors of the colonies adopt additional laws "wholesome and necessary for the public good."

Once these imperial obstacles to the administration of justice and to the orderly process of law-making were removed, the Americans of two centuries ago put their faith in a legal system that even today has much in common with English law.

It is most appropriate for the ABA to have chosen "Common Faith and Common Law" as the theme for this meeting. The theme speaks of our faith in the Anglo-American system of law and justice which we have long shared with our British counterparts.

I commend the American Bar Association for its continuing efforts to improve the standards and advance the competence of the legal community. These efforts serve well to build public trust in the legal profession and thereby strengthen the common faith in our system of law and justice.

Dated August __, 1976
at the White House
Washington, D. C.

Ce

For filing

American Bar Assoc.
August 5-11, 1976

Monday 7/12/76

10:15 Concerning the American Bar Association meeting in Atlanta from August 5 to 11, Mrs. Buchen said you and she would be going if they want you to go.

Said it wasn't definite whether the President could attend -- whether you were invited to speak -- or whether you were to deliver a message for the President if he couldn't attend.

Have you discussed this with Rustand and/or Lawrence Walsh?

Suggested you would need to know which day would be best and would most likely want to go one day and come back the next. And could make arrangements to see some friends who live there -- if you knew when you would possibly be going.

LEASE ROUTE THROUGH
DEFORE DISPATCH

OK. R.

THE WHITE HOU
WASHINGTON

October 1, 1975

Dear Judge Walsh:

Philip Buchen forwarded, together with his own personal endorsement, your invitation to the President to appear before the Annual Meeting of the American Bar Association which will be held in Atlanta, August 5-11, preferably on August 9.

The President was pleased to have this opportunity but it is not possible to make a commitment to you at present due to the many variables in the President's schedule for next year. We will carry it forward for careful consideration at the final determination of the August 1976 calendar. In the meantime, please be assured of the President's deep appreciation for your thoughtfulness.

Sincerely,

Warren S. Rustand
Appointments Secretary
to the President

The Honorable Lawrence E. Walsh
President
American Bar Association
1155 East 60th
Chicago, Illinois 60637

cc: Phil Buchen
2 cys Nancy Gemmell
Mary Kidner

THE WHITE HOUSE

WASHINGTON

September 25, 1975

MEMORANDUM FOR: WARREN RUSTAND

FROM: PHILIP BUCHEN P.

Attached is the original of a letter addressed to the President from Judge Lawrence E. Walsh inviting the President to the Annual Meeting of the American Bar Association to be held in Atlanta on August 5-11, 1976.

The letter was hand-delivered to me by Judge Walsh. I call attention to the fact that this event may coincide with the Republican Convention, but that you should give the matter careful consideration and advise Judge Walsh of what the prospects are and when a final decision could be made. He tells me that August 9 would be the preferred date during the course of the meeting.

I would appreciate receiving a copy of your reply to the Judge.

As you remember, the speech scheduled by Vice President Ford at the 1974 meeting had to be cancelled, and he declined the 1975 meeting in Montreal because it involved out-of-the country problems.

Attachment

AMERICAN BAR ASSOCIATION

OFFICE OF THE PRESIDENT
LAWRENCE E. WALSH
AMERICAN BAR CENTER
CHICAGO, ILLINOIS 60637
TELEPHONE: 312/947-4042

September 24, 1975

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

Dear Mr. President

The Annual Meeting of the American Bar Association will be held in Atlanta, Georgia, from August 5 to August 11, 1976. It is my privilege and pleasure as President of the Association to invite you to deliver the principal address at our Opening Assembly at 9 a.m. on Monday, August 9th.

We anticipate that nine thousand lawyers and members of their families will attend our Meeting. Our Bicentennial theme is "Common Faith and Common Law" and the substantive program will examine and emphasize the shared legal and ethical tradition underlying the Anglo-American concept of justice. We will focus on the interdependence of this tradition. I know that I can speak for all the members of your profession in expressing the hope that you, as our President and our most distinguished lawyer, will be able to do this.

Sincerely yours,

Lawrence E. Walsh

Lawrence E. Walsh

LEW/js