

**The original documents are located in Box 119, folder “Morton, Rogers” of the Ron Nessen Papers at the Gerald R. Ford Presidential Library.**

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January 15, 1976

SUBJECT:

COUNSELLOR MORTON

What's your reaction to the charges by Tom Curtis that Morton is illegally on the White House payroll?

GUIDANCE: Mr. Philip Buchen, Counsel to the President, has been in touch with the Federal Elections Commission and will be meeting with the FEC Counsel and the Chairman this afternoon to explore their concerns, and explore their questions. Essentially, it will be from our standpoint, a listening session.

Is it correct to assume that the President will obey the law?

GUIDANCE: Of course, the President and his staff will totally and completely obey the letter and spirit of the law, just as we expect all other candidates to do.

COUNSEL - JOHN G. MURPHY

JGC

January 13, 1976

SUBJECT:

ROGERS C. B. MORTON

The President today announced the appointment of Rogers C.B. Morton as Counsellor to the President.

What will his duties be?

GUIDANCE: Secretary Morton will retain Cabinet rank, will continue to serve on the Executive Committee, of the Economic Policy Board and on the Energy Resources Council. In addition, he will serve as liaison between the White House and the Republican National Committee and the President Ford Committee and he will be available for such other assignments as the President may direct. *his*

*is incidental to his other duties.*  
Who will pay his salary? *Violation will be considered with FEC rulings and reg., like all WH employees.*

GUIDANCE: As Counsellor to the President, Mr. Morton holds a public office and his salary will be paid by the U.S. Government.

Why should the taxpayers pay the salary of someone performing a political function and working on the President's campaign?

GUIDANCE: The real question is whether a Counsellor to the President should be paid by an external force. This has not been done in the past, and it is the reason why the Hatch Act excludes certain White House officials from its prohibition against campaign activities.

*Camp, Haulman paid.*  
*Campaign is run by Calloway, not out of white house.*  
*Ray have wide range of responsibility, not just political, based on long experience in govt.*



How much will Mr. Morton be paid?

GUIDANCE: He will be paid at Executive Level II as are the other Presidential Counsellors. This salary of \$44,600 is \$18,400 less than he was earning as Secretary of Commerce.

When will he begin his new duties?

GUIDANCE: Probably later this week.

Is he bringing any staff with him?

GUIDANCE: Yes, he is bringing as his Assistant ~~James~~ Roy Hughes. ~~They~~ will fill vacancies presently existing on the White House Staff. *Former L.A.*

Where will his office be located?

GUIDANCE: In Room 175 of the Old Executive Office Building.

FYI ONLY: This is the office formerly occupied by Former President Nixon.

Did Governor Scranton decline this post?

GUIDANCE: I do not think he was asked.

Will Mr. Morton's health impair his abilities?

GUIDANCE: ~~You will have to ask him.~~

*No.*

*Q - What does this do to Fortmann, Gentry?*

*A - They will believe it due to his political position. Give pertinent advice to the Pres. when asked.*

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November 12, 1975

SUBJECT:

MORTON'S CONTEMPT CITATION

What's the White House's response to the recommendation yesterday that Commerce Secretary Morton be cited for contempt of Congress?

GUIDANCE: We feel it would be most unfortunate to hold Secretary Morton in contempt, because we believe he is simply fulfilling his legal obligation under the statute (Section 7C of the Export Administration Act) as passed by the Congress.

What is the White House's involvement in this citation?

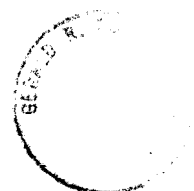
GUIDANCE: The White House supports the decision of the Secretary of Commerce, and we will rely on the legal opinion of the Attorney General.

What was the legal opinion of the Attorney General?

GUIDANCE: The Attorney General has advised Secretary Morton and the Subcommittee that the confidentiality requirements of Section 7C of the Act apply to disclosure to Congressional committees as well as to the public generally and that "the Committee is not entitled to receive the reports in question unless, in exercising the discretion granted by Section 7C, the [Secretary] determine[s] that withholding them would be 'contrary to the national interest'."

*Morton never talked to the Pres.*

JGC



Nessen

THE WHITE HOUSE

WASHINGTON

November 12, 1975

MEMORANDUM FOR:

JOHN CARLSON

FROM:

BOBBIE GREENE KILBERG

Bobbie

SUBJECT:

Facts on Recommendation by Moss Subcommittee  
That Secretary Morton Be Held in Contempt of  
Congress

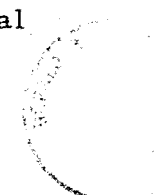
By a vote of 10-5 the Subcommittee on Oversight and Investigation of the House Committee on Interstate and Foreign Commerce passed a resolution on November 11 in which the Subcommittee found Secretary Morton in contempt for failure to comply with a subpoena dated July 28, 1975 and reported its conclusion to the full Committee.

The resolution constitutes a recommendation to the full Committee that Secretary Morton be held in contempt of Congress. If the full Committee, chaired by Congressman Staggers, votes to support the Subcommittee's findings, it would report that to the full House which is the only body that can cite the Secretary for contempt of Congress. Commerce believes the resolution report will reach the full Committee within a week.

The actual subpoena was issued by the House Committee, and it requested Morton to produce the reports filed by private firms with the Department of Commerce pursuant to Section 4(b) of the Export Administration Act of 1969. Domestic exporters are required by the Department to file reports of any Arab boycott requests they receive.

Section 7(c) of the Export Administration Act provides that:

No department . . . or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential . . . unless the head of such department . . . determines that the withholding thereof is contrary to the national interest.



The reporting forms for the Arab boycott request reports expressly advise the reportee that the information contained in the reports is confidential. In addition to the exporter's name, each report contains details of the specific transaction involved. In a letter of August 22, 1975 to Chairman Staggers, Secretary Morton stated that he would submit the reports to the Committee "subject only to deletion of any information which would disclose the identity of the firms and the details of the commercial transactions involved." This offer was turned down.

Because the Department of Commerce expressly had advised reporting firms that the information submitted would remain confidential and because, in the Secretary's view, disclosure would expose the reporting firms to possible competitive injury and economic pressure, it was the Secretary's judgment that maintaining the confidentiality of information "would not be contrary to the national interest and, in fact, that . . . disclosure might well be inconsistent with the national interest." Under the statute, the Secretary and not the Congress must make the determination of what is and what is not in the national interest in relationship to disclosure of the reports.

The Attorney General has advised Secretary Morton and the Subcommittee that the confidentiality requirements of Section 7(c) of the Act apply to disclosure to Congressional committees as well as to the public generally and that "the Committee is not entitled to receive the reports in question unless, in exercising the discretion granted by Section 7(c), the [Secretary] determine[s] that withholding them would be 'contrary to the national interest.'" In the Attorney General's opinion, a statutory restriction upon Executive agency disclosure of information is presumptively binding even with respect to requests or demands of Congressional committees, unless the Congress in passing the statute included an explicit exception for Congressional requests. The Export Administration Act does not contain such an exception and therefore it is presumably not intended.

When Morton was asked by a reporter whether he had talked with the White House on this matter, he said no. That is technically accurate since I and Rod Hills\* had been in touch only with Karl Bakke, Commerce's General Counsel, Dick Hull, Commerce Assistant General Counsel, Kent Knowles of their staff, and Nino Scalia, Assistant Attorney General for the Office of Legal Counsel. However,

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\* Rod Hills was not involved in this matter after his confirmation as Chairman of the SEC.

on the evening news, Leslie Stahl stated that the Secretary had "at least tacit" White House approval for his position. In response to a question from a Subcommittee member about where he had received advice, Secretary Morton stated that he had been given advice on his position only by the Department's Counsel and the Attorney General. According to Karl Bakke, Commerce's General Counsel, the Secretary added that of course the issue was a high profile item and that a lot of people were aware of what was going on, but that the Secretary did not get any more specific than this before the Subcommittee.

In response to any questions about White House involvement, I think the proper approach would be to state that the White House supports the decision of the Secretary of Commerce and will rely on the legal opinion of the Attorney General.

In response to what our view would be on a vote by the full Committee to recommend contempt or on a vote by the House to hold Secretary Morton in contempt, we should say this would be most unfortunate because Secretary Morton is simply fulfilling his legal obligation under the statute as passed by Congress.