The original documents are located in Box 126, folder "Buchen, Philip (3)" of the Ron Nessen Papers at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE
WASHINGTON

NOTE FOR: Phil Buchen

FROM : RON NESSEN

Please suggest the appropriate answer.

RHA

cc: Jim Connor

MORNING EVENING SUNDAY

THE SUN

THE A.S. ABELL COMPANY, PUBLISHER
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WASHINGTON BUREAU
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November 11, 1975

Ronald H. Nessen
Press Secretary to the President
The White House
Washington, D.C.

Dear Mr. Nessen:

This refers to the request I made informally to you on October 16.

I am writing to request access to the following files for the purposes of inspection and, if I so choose, copying:

The most recent payrolls of the White House office, the executive office of the President, and the Domestic Council, indicating the names and salaries of all personnel employed or on reimbursable detail in those offices.

As you know, the amended Act provides that if some parts of a file are exempt from release that "reasonably segregable" portions shall be provided. I therefore request that, if you determine that some portions of the requested information are exempt, you provide me immediately with a copy of the remainder of the file. I, of course, reserve my right to appeal any such deletions.

If you determine that some or all of the requested information is exempt from release, I would appreciate your advising me as to which exemption(s) you believe covers the information which you are not releasing.

I am prepared to pay costs specified in your regulations for locating the requested files and reproducing them, if I request reproduction, but if you anticipate that costs of locating the files will exceed $35.00, please telephone me at the above number before proceeding.

As you know, the amended Act permits you to reduce or waive the fees if that "is in the public interest because furnishing the information can be considered as primarily benefiting the public." I believe that this request plainly fits that category and ask you to waive any fees.

If you have any questions regarding this request, please telephone me at the above number.

As provided for in the amended Act, I will expect to receive a reply within ten working days.

Sincerely yours,

Adam Clymer

Adam Clymer

AC:slk

THE WHITE HOUSE

WASHINGTON

November 21, 1975

MEMORANDUM FOR

MEMBERS OF THE CABINET
SENIOR WHITE HOUSE STAFF

Attached for your information is a memorandum discussing recent Congressional demands for certain Executive branch documents.

I trust that you will find the document to be informative on a matter of controversy which has been given substantial treatment by the press.

P.W.B.

Philip W. Buchen
Counsel to the President

Attachment

THE WHITE HOUSE

WASHINGTON
November 18, 1975

M E M O R A N D U M

Re: Congressional Demands for Executive Branch Documents

This is to present the development of several controversies which have arisen involving Congressional committee demands for Executive Branch documents directed to Secretaries Kissinger, Morton and Mathews. Also treated are the several bases underlying the Administration's refusal to comply with certain of these requests. Particular emphasis is given to the concept and scope of Executive Privilege.

I. Relevant Controversies.

Three areas of conflict involving demands for Executive Branch documents have arisen between committees of the Congress and representatives of the Ford Administration. The circumstances giving rise to these conflicts may be summarized in the following manner.

A. House Select Committee Demand of November 6 (Secretary Kissinger).

On November 6, 1975, seven (7) subpoenas were issued by the House Select Committee on Intelligence, chaired by Representative Otis Pike. On November 7, the subpoenas were served as follows:

1. State Department. Only one (1) subpoena was actually directed to Secretary Kissinger demanding all documents relating to State Department recommendations for covert actions made to the National Security Committee and the Forty Committee (composed of the President's principal personal advisers on matters of military and foreign affairs) from

January 20, 1965 to the present. On November 14, the Legal Adviser of the Department of State advised the Select Committee that Secretary Kissinger had been directed by the President to respectfully decline compliance with the subpoena and to assert the Constitutional doctrine of Executive Privilege as the basis for the refusal. On the same day, the Select Committee adopted a resolution calling on the House of Representatives to cite Secretary Kissinger for contempt in failing to provide the subpoenaed materials.

2. Central Intelligence Agency. One (1) subpoena was served on the Central Intelligence Agency and substantial compliance was effected on November 11 by a letter from Mitchell Rogovin, Special Counsel to the CIA, to the Select Committee. No assertion was made to a right to withhold the materials requested.

3. National Security Council. Five (5) subpoenas were directed to the Assistant to the President for National Security Affairs. These were accepted by a representative of the Office of the Counsel to the President on behalf of Jeanne Davis, Staff Secretary, National Security Council. Under date of November 11, Lieutenant General Scowcroft, Deputy Assistant to the President for National Security Affairs responded to the subpoenas by forwarding the documents available at that time and by agreeing to provide other requested documents as they became available. Thus, the Administration is in substantial compliance with this request, and has not asserted a right to withhold the materials from the committee.

B. House Subcommittee on Oversight and Investigations Demand of July 28 (Secretary Morton).

On July 10, the Chairman of the Subcommittee on Oversight and Investigations of the Committee on

Interstate and Foreign Commerce, Representative John Moss, wrote the Department of Commerce to request copies of all quarterly reports filed by exporters, since 1970, concerning any "request for [Arab] boycott compliance". On July 24, Secretary Morton sent Representative Moss a summary of boycott information reported by exporters, but declined to furnish copies of the reports themselves, invoking the statutory authority contained in Section 7(c) of the Export Administration Act.

On July 28, the Subcommittee issued a formal subpoena to Secretary Morton calling for a turnover of the reports. On September 4, the Attorney General provided Secretary Morton with a formal opinion to the effect that the Secretary need not disclose the reports under the authority conferred by Section 7(c) and this position was asserted by Secretary Morton in an appearance before the Subcommittee on September 22.

On November 12, the Subcommittee approved a resolution calling for full committee action on a contempt citation against Secretary Morton. A finding of contempt, of course, would require floor action by the House of Representatives.

C. House Subcommittee on Oversight and Investigations Demand of November 5 (Secretary Mathews).

On October 23, Chairman Moss of the Subcommittee on Oversight and Investigations requested Secretary Mathews to provide a list of deficiencies which showed up in surveys of hospitals by the Joint Commission on Accreditation of Hospitals. Acting on the advice of counsel, Secretary Mathews refused to comply with the request, asserting a statutory exemption contained in Section 1865(a) of the Social Security Act.

On October 23, the Subcommittee issued a subpoena for the list and this was referred by Secretary Mathews to the Attorney General for his review. On November 12, the Attorney General indicated that he found the language of the Social Security Act's confidentiality provision to be very weak, as opposed to the strong provision contained in the Export Administration Act noted supra. In his opinion, Section 1865(a) of the Social Security Act lent itself to the interpretation that information so furnished is not to be made public but may be conveyed to the Congress on proper request. Accordingly, on November 12 Secretary Mathews made the list available to the Subcommittee, thus ending the controversy.

II. Bases For Denials

The basis for Secretary Morton's refusal to comply with the request of the Moss Subcommittee is statutory law. The basis for the refusal by President Ford to comply with the request made to Secretary Kissinger is grounded in Constitutional doctrine, i.e. Executive Privilege.

A. The Statutory Basis for Denial.

Section 3(5) of the Export Administration Act of 1969, 50 U.S.C. App. 2402(5), provides in pertinent part that:

* * *

> It is the policy of the United States (A) to oppose restrictive trade practices or boycotts . . . imposed by foreign countries against other countries friendly to the United States, and (B) to encourage and request domestic concerns engaged in . . . [exporting] to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering . . . [such] restrictive trade practices or boycotts . . . .

* * *

Section 4(b) calls for issuance of rules and regulations to implement Section 3(5) and states that the rules and regulations are to "require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements . . . [of the type specified in Section 3(5)(B)] must report that fact to the Secretary of Commerce . . . ."

The Act's confidentiality provision, Section 7(c), 50 U.S.C. App. 2406(c), reads as follows:

* * *

> 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 regulation of the Department of Commerce implementing Section 3(5) expressly states that the information contained in reports filed by exporters "is subject to the provisions of Section 7(c) of the . . . Act regarding confidentiality . . . ." 15 CFR §369.2(b). Moreover, the basic reporting form (Form DIB-621) states that: "Information furnished herewith is deemed confidential and will not be published or disclosed except as specified in Section 7(c) of the . . . [Act]."

Statutory restrictions upon executive agency disclosure of information are presumptively binding even with respect to requests or demands of congressional committees. That this assumption accords with general legislative intent is demonstrated by the inclusion, in a number of statutes concerning confidentiality of information, of explicit exceptions for

congressional requests. When, as in Section 7(c), such an exception is not provided, it is presumably not intended. In the present case, this standard interpretation finds additional support in the legislative history of the statute, in an apparently consistent administrative construction, and in Congress' reenactment of the provision with knowledge of that construction.

No constitutionally-based privilege has been asserted.

B. Executive Privilege as a Basis for Denial.

Beginning with President Washington, Presidents have claimed and exercised the responsibility of withholding from Congress information the disclosure of which they consider to be contrary to the public interest. This responsibility is frequently called "Executive privilege." Information of this type usually comes within the categories of military or diplomatic state secrets, investigatory reports, and internal governmental advice. The Supreme Court has held in United States v. Nixon, 418 U.S. 683, 708 (1974), that the Executive privilege is "fundamental to the operation of government and inextricably rooted in the separation of powers under the Constitution." It also distinguished the presumptive privilege accorded all confidential communications from sensitive national security matters involved here, which are entitled to the highest degree of confidentiality under the Constitution. It, therefore, does not require any statutory basis and cannot be controlled by Congress.

Recent examples of Presidential directions to Cabinet members not to release certain information to Congress are:

1. President Eisenhower's letter of May 17, 1954, to the Secretary of Defense not to testify with respect to certain top level conversations which occurred during the Army-McCarthy investigations. [Enclosed]

2. President Kennedy's letters to the Secretaries of Defense and State, dated February 8 and 9, 1962, respectively, instructing them not to disclose the names of individuals who had reviewed certain draft speeches prepared by military officers. The issue of Executive Privilege was also treated in President Kennedy's letter to Senator Stennis dated June 23, 1962. These arose during an investigation by the Senate Armed Services Committee into "Military Cold War Education and Speech Review Policies." [Enclosed]

Congressional (as distinct from judicial) demands for material may fall into two categories. The first would be a normal committee request, demand, or subpoena for material as discussed above, which may be rejected on the basis of Executive Privilege where it is deemed by the President that the production of such material would be detrimental to the functioning of the Executive Branch. This, at least, has been the consistent practice by practically every administration and acceded to by Congress. This should be contrasted with a demand for material pursuant to an impeachment inquiry, which some presidents have acknowledged would require production of any and all executive material. See e.g., Washington's Statement, 5 Annals of Congress 710-12 (1796).

III. Procedures for Asserting Executive Privilege.

In early years, the Executive Branch practice with respect to assertion of Executive Privilege as against Congressional

requests was not well defined. As noted above, during the McCarthy investigations, President Eisenhower, by letter to the Secretary of Defense, in effect prohibited all employees of the Defense Department from testifying concerning conversations or communications embodying advice on official matters. This situation eventually produced such a strong Congressional reaction that on February 8, 1962, President Kennedy wrote to Congressman Moss stating that it would be the policy of his Administration that "Executive privilege can be invoked only by the President and will not be used without specific Presidential approval." Mr. Moss sought and received a similar commitment from President Johnson. (President's letter of April 2, 1965.)

President Nixon continued the Kennedy-Johnson policy but formalized it procedurally by a memorandum dated March 24, 1969, addressed to all Executive Branch officials. The memorandum notes that the privilege will be invoked "only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise."

President Ford publicly addressed the concept of Executive Privilege in his televised appearance before the House Subcommittee on Criminal Justice on October 17, 1974. He expressed his view that " . . . the right of Executive Privilege is to be exercised with caution and restraint" but also said: "I feel a responsibility, as you do, that each separate branch of our Government must preserve a degree of confidentiality for its internal communications."

#

113 ¶ Letter to the Secretary of Defense Directing Him To Withhold Certain Information from the Senate Committee on Government Operations. *May* 17, 1954

Dear Mr. Secretary:

It has long been recognized that to assist the Congress in achieving its legislative purposes every Executive Department or Agency must, upon the request of a Congressional Committee, expeditiously furnish information relating to any matter within the jurisdiction of the Committee, with certain historical exceptions—some of which are pointed out in the attached memorandum from the Attorney General. This Administration has been and will continue to be diligent in following this principle. However, it is essential to the successful working of our system that the persons entrusted with power in any one of the three great branches of Government shall not encroach upon the authority confided to the others. The ultimate responsibility for the conduct of the Executive Branch rests with the President.

Within this Constitutional framework each branch should cooperate fully with each other for the common good. However, throughout our history the President has withheld information whenever he found that what was sought was confidential or its disclosure would be incompatible with the public interest or jeopardize the safety of the Nation.

Because it is essential to efficient and effective administration that employees of the Executive Branch be in a position to be completely candid in advising with each other on official matters, and because it is not in

the public interest that any of their conversations or communications, or any documents or reproductions, concerning such advice be disclosed, you will instruct employees of your Department that in all of their appearances before the Subcommittee of the Senate Committee on Government Operations regarding the inquiry now before it they are not to testify to any such conversations or communications or to produce any such documents or reproductions. This principle must be maintained regardless of who would be benefited by such disclosures.

I direct this action so as to maintain the proper separation of powers between the Executive and Legislative Branches of the Government in accordance with my responsibilities and duties under the Constitution. This separation is vital to preclude the exercise of arbitrary power by any branch of the Government.

By this action I am not in any way restricting the testimony of such witnesses as to what occurred regarding any matters where the communication was directly between any of the principals in the controversy within the Executive Branch on the one hand and a member of the Subcommittee or its staff on the other.

Sincerely,

DWIGHT D. EISENHOWER

NOTE: Attorney General Brownell's memorandum of March 2, 1954, was released with the President's letter. The memorandum traces the development from Washington's day of the principle that the President may, under certain circumstances, withhold information from the Congress.

Taking the doctrine of separation of powers as his text, the Attorney General stated that it is essential to the successful working of the American system that the persons entrusted with power in any one of the three branches should not be permitted to encroach upon the powers confided to the others.

The memorandum continues: "For over 150 years . . . our Presidents have established, by precedent, that they and members of their Cabinet and other heads of executive departments have an undoubted privilege and discretion to keep confidential, in the public interest, papers and information which require secrecy. American history abounds in countless illustrations of the refusal, on occasion, by the President and heads of departments to furnish papers to Congress, or its committees, for reasons of public policy. The messages of our past Presidents reveal that almost every one of them found it necessary to inform Congress of his constitutional duty to execute the office of President, and, in furtherance of that duty, to withhold information and papers for the public good."

As for the courts, they have "uniformly held that the President and the heads of departments have an uncontrolled discretion to withhold . . . information and papers in the public interest; they will not interfere with the exercise of that discretion, and that Congress has not the power, as one of the three great branches of the Government, to subject the Executive Branch to its will any more than the Executive Branch may impose its unrestrained will upon the Congress."

Among the precedents cited in the Attorney General's memorandum are the following:

President Washington, in 1796, was presented with a House Resolution requesting him to furnish copies of correspondence and other papers relating to the Jay Treaty with Great Britain as a condition to the appropriation of funds to implement the treaty. In refusing, President Washington replied "I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President as a duty to give, or which could be required of him by either House of Congress as a right; and with truth I affirm that it has been, as it will continue to be while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof so far as the trust delegated to me by the people of the United States and my sense of the obligation it imposes to 'preserve, protect, and defend the Constitution' will permit."

President Theodore Roosevelt, in 1909, when faced with a Senate Resolution directing his Attorney General to furnish documents relating to proceedings against the U.S. Steel Corporation, took possession of the papers. He then informed Senator Clark of the Judiciary Committee that the only way the Senate could get them was through impeachment. The President explained that some of the facts were given to the Government under the seal of secrecy and could not be divulged. He added "and I will see to it that the word of this Government to the individual is kept sacred."

"During the administration of President Franklin D. Roosevelt," the Attorney General's memorandum states, "there were many instances in which the President and his Executive heads refused to make available certain information to Congress the disclosure of which was deemed to be confidential or contrary to the public interest." Five such cases are cited, including one in which "communications between the President and the heads of departments were held to be confidential and privileged and not subject to inquiry by a committee of one of the Houses of Congress."

MILITARY COLD WAR EDUCATION AND SPEECH REVIEW POLICIES

HEARINGS

BEFORE THE

SPECIAL PREPAREDNESS SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES

UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

SECOND SESSION

PART 6

~~MAY 16, 24; JUNE 4, 7, 8, 1962~~

Printed for the use of the Committee on Armed Services

U.S. GOVERNMENT PRINTING OFFICE
50752 WASHINGTON : 1962

The Chair has ordered the witness to answer the question.

Senator STENNIS. Yes, I think, Senator Thurmond, that that is technically correct, but, at the same time, the Secretary of Defense is here and this question of executive privilege has been talked about back and forth.

I assume the Secretary has something to bear directly upon that in this question, so I recognize the Secretary to make a statement.

Secretary MCNAMARA. Thank you, Mr. Chairman.

Would you like me to swear under oath?

Senator STENNIS. You are already under oath. I beg your pardon, you have not been here.

Secretary MCNAMARA. No, sir; I have not.

Senator STENNIS. All right; thank you very much for reminding me.

Will you please stand, Secretary McNamara. Do you solemnly swear that your testimony before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Secretary MCNAMARA. I do, sir.

Senator STENNIS. Have a seat.

Secretary MCNAMARA. Mr. Chairman——

Senator STENNIS. I assume this is with reference to executive privilege, is it not?

KENNEDY LETTER TO M'NAMARA

Secretary MCNAMARA. It is, sir.

I would like to read a letter to me from the President. This is dated February 8.

DEAR MR. SECRETARY: You have brought to my attention the fact that the Senate Special Preparedness Investigating Subcommittee intends to ask witnesses from your Department to give testimony identifying the names of individuals who made or recommended changes in specific speeches.

As you know, it has been and will be the consistent policy of this administration to cooperate fully with the committees of the Congress with respect to the furnishing of information. In accordance with this policy, you have made available to the subcommittee 1,500 speeches with marginal notes, hundreds of other documents, and the names of the 14 individual speech reviewers, 11 of whom are military officers. You have also made available the fullest possible background information about each of these men, whose record of service and devotion to country is unquestioned in every case, and you have permitted the committee's staff to interview all witnesses requested and to conduct such interviews outside the presence of any departmental representative. Finally, you have identified the departmental source of each suggested change and offered to furnish in writing an explanation of each such change and the policy or guideline under which it was made.

Your statement that these changes are your responsibility, that they were made under your policies and guidelines and those of this administration, and that you would be willing to explain them in detail is both fitting and accurate, and offers to the subcommittee all the information properly needed for the purposes of its current inquiry. It is equally clear that it would not be possible for you to maintain an orderly Department and receive the candid advice and loyal respect of your subordinates if they, instead of you and your senior associates, are to be individually answerable to the Congress, as well as to you, for their internal acts and advice.

For these reasons, and in accordance with the precedents on separation of powers established by my predecessors from the first to the last, I have concluded that it would be contrary to the public interest to make available any information which would enable the subcommittee to identify and hold accountable any individual with respect to any particular speech that he has reviewed. I, therefore, direct you and all personnel under the jurisdiction of your Depart-

must not to give any testimony or produce any documents which would disclose such information, and I am issuing parallel instructions to the Secretary of State.

The principle which is at stake here cannot be automatically applied to every request for information. Each case must be judged on its own merits. But I do not intend to permit subordinate officials of our career services to bear the brunt of congressional inquiry into policies which are the responsibilities of their superiors.

Sincerely yours,

JOHN F. KENNEDY.

WITNESS INSTRUCTED BY M'NAMARA NOT TO ANSWER QUESTION

Mr. Chairman, acting in accordance with that instruction, I have instructed Mr. Lawrence not to answer the question, thereby invoking executive privilege.

WITNESS DECLINES TO ANSWER QUESTION

Senator STENNIS. Mr. Lawrence, of course, you have heard what the Secretary has said here. Is that your position now?

Mr. LAWRENCE. Yes, sir; it is.

Senator STENNIS. You decline to answer the question for the reasons assigned by the Secretary?

Mr. LAWRENCE. That is right, sir.

CHAIRMAN CLEARS WITNESS AND ASSOCIATES

Senator STENNIS. I just want the record to be clear and positive. As I understood it from the following letter, the President puts it on the ground of being contrary to the public interest.

All right, let me say an additional word here about Mr. Lawrence, if I may, and in reference to the other gentlemen. This executive privilege presented by the Secretary and also adopted by Mr. Lawrence presents a new question. Before I leave this situation, I want to say that there is no tarnish of any kind on Mr. Lawrence or any of his 13 associates. All of them, according to my information, including all that collected by the staff members and all that I have ever heard, are intelligent, dedicated, hard-working, patriotic, loyal Americans, and I firmly believe that they are, each of these gentlemen. Some of them are members of the services, and some of them are in civilian life.

STATEMENT BY SENATOR JOHN STENNIS IN RULING ON PLEA OF EXECUTIVE PRIVILEGE, FEBRUARY 8, 1962

Senator STENNIS. Members of the subcommittee, in view of the express plea here of executive privilege, I think it clearly the duty of the Chair now to rule upon the plea. Not only is my duty clear, but it is clear that I should rule on it now.

It is a question that I have long anticipated in connection with these hearings. It is a matter which became evident to me many weeks ago and caused me to make a special study of it. I have therefore, examined what I believe to be all of the authorities on the subject. I have also consulted with others who have had Senatorial experience in this field. I have a brief statement to make here as background for the ruling I shall make.

80752—62—pt. 2——10

In the arsenal of our cold war weapons there is no place for boasting or bellicosity, and name calling is rarely useful. As Secretary of State Rusk has said:

The issues called the cold war are real and cannot be merely wished away. They must be faced and met. But how we meet them makes a difference. They will not be scolded away by invective nor frightened away by bluster. They must be met with determination, confidence, and sophistication.

Our discussion, public, or private, should be marked by civility; our manners should conform to our dignity and power and to our good repute throughout the world. But our purposes and policy must be clearly expressed to avoid miscalculation or an underestimation of our determination to defend the cause of freedom.

The solemn nature of the times calls for the United States to develop maximum strength but to utilize that strength with wisdom and restraint.

Or, in other words, as President Theodore Roosevelt aptly said at an earlier time, we should "speak softly but carry a big stick."

This, I submit, Mr. Chairman, is the only appropriate posture for the leading nation in the world.

I should like, if I may, to hand up to the committee copies of the President's letter to the Secretary of State.

KENNEDY LETTER TO RUSK ON EXECUTIVE PRIVILEGE

Senator STENNIS. All right, Mr. Reporter, at this point in the record you may insert the letter from President Kennedy dated February 9, 1962.

(The letter referred to is as follows:)

THE WHITE HOUSE,
Washington, February 9, 1962.

The Honorable the SECRETARY OF STATE,
Washington, D.C.

DEAR MR. SECRETARY: I am attaching a copy of my letter to Secretary McNamara of February 8 in which I have directed him, and all personnel under the jurisdiction of the Department of Defense, not to give any testimony or produce any documents which would enable the Senate's Special Preparedness Investigating Subcommittee to identify and hold accountable any individual with respect to any particular speech that he has reviewed.

That letter states that I am issuing parallel instructions to the Secretary of State. I therefore direct you, and all personnel under the jurisidiction of your Department, not to give any such testimony or produce any such documents.

As I noted in my letter to Secretary McNamara, the principle of Executive privilege cannot be automatically applied to every request for information. Each case must be judged on its own merits. But the principle as applied to these facts governs the personnel of your Department equally with that of the Department of Defense. In neither case do I intend to permit subordinate officials of the career services to bear the brunt of congressional inquiry into policies which are the responsibilities of their superiors.

Sincerely,

JOHN F. KENNEDY

Enclosure.

Senator STENNIS. Mr. Secretary, we certainly want to thank you for a very clear and positive statement and, without delaying this matter any further, because we were late convening this morning due to the pressure of other meetings, I am going to ask counsel if he will proceed now with his questions, if you are ready.

Mr. BALL. Thank you, sir.

It is to these men, who have risen to the top in the Nation's Armed Forces after a generation of experience and effort in military life, to whom we must look and to whom the President must look, for the most authoritative advice on our national defense requirements." [72]

We begin to enter more controversial ground when we consider the advisory function of the military vis-a-vis the American public. Under a directive of the National Security Council in 1958, military people were encouraged to undertake this advisory function, primarily through seminar-type discussions on the cold war. These seminars led to criticism from some quarters that the military had no proper role in such public advisory activities and the further raising of the chimera of military control over the civil authority.

Shelves of books could be written and learned arguments adduced both against and in support of the military role in advising the American people about the many facets of the cold war. But the essence of the matter is whether or not we wish fully to inform the public. James Madison wrote in the Federalist Papers that "the genius of republican liberty seems to demand on one side, not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people." No one has yet discovered how this genius—our noblest achievement in Government—can function except through an informed public.

Senator Strom Thurmond has said with reference to the public information or advisory role of the military that there are "facts that the American people must have, regardless of where the chips may fall. Censorship and suppression shield behind a smokescreen of civilian control policies on which the American people have too few facts. If these policies cannot stand the spotlight of public attention and discussion, then they should be rejected." [74]

How portentous is the presentation of the facts of the cold war to the American public in the 1960's may be seen by comparison with the sleepwalkers of the Munich era in Great Britain. How much might not have England—and the world—been spared had the appeasers heeded Churchill's advise: "Tell the truth, tell the truth to the British people." [75]

SECOND ADDENDUM TO RECORD

KENNEDY LETTER TO STENNIS ON NATIONAL POLICY PAPERS

Subsequent to the final hearing, Chairman Stennis transmitted to President Kennedy the request by Senator Thurmond that the subcommittee be furnished with copies of certain National Security Council papers and the policy paper prepared by Mr. Rostow. Senator Thurmond's request for these documents appears on pages 2951 through 2957 of the printed transcript. The President replied to this request by a letter dated June 23, 1962. In order that the record might be complete, and by direction of the chairman, President Kennedy's letter is printed below.

THE WHITE HOUSE,
Washington, June 23, 1962.

Hon. JOHN STENNIS,
Chairman, Special Preparedness Subcommittee,
U.S. Senate.

DEAR SENATOR STENNIS: I have your letter enclosing excerpts from the record of the Special Preparedness Subcommittee hearing during which Senator Thurmond requested you to ask me to furnish copies of National Security Council papers to the Subcommittee.

As you know, it has been and will be the consistent policy of this Administration to cooperate fully with the Committees of the Congress with respect to the furnishing of information. But the unbroken precedent of the National Security

---

[72] Congressional Record, 81st Cong., 1st sess., vol. 95, Mar. 30, 1949, p. 3540.
[73] Of course, classified information cannot be disclosed to the public except in such instances in which the President would decide it to be in the interest of the United States.
[74] Quoted, World, Jan. 31, 1962, p. 23.
[75] See p. 8, supra.

Council is that its working papers and policy documents cannot be furnished to the Congress.

As President Eisenhower put it in a letter dated January 22, 1958, to Senator Lyndon Johnson: "Never have the documents of this Council been furnished to the Congress."

As I recently informed Congressman Moss, this Administration has gone to great lengths to achieve full cooperation with the Congress in making available to it all appropriate documents. In the case of National Security Council documents, however, I believe the established precedent is wise. I am therefore obliged to decline the request for Council papers.

It seems to me that explanations of policy put forward in the usual way to Committees of Congress by representatives of the State Department are fully adequate to the need expressed by Senator Thurmond during your hearing.

Sincerely,

JOHN F. KENNEDY.

O

November 24, 1975

MEMORANDUM FOR: PHIL BUCHEN

FROM: RON NESSEN

Phil Shabecoff of the New York Times is doing a long, serious story on "the powers of the President" in the wake of Watergate, Vietnam and the other events of recent years.

He complained to me that he is having difficulty reaching you. If you have the time, I think it would be worthwhile talking to Shabecoff.

RN/jb

December 31, 1975

MEMORANDUM FOR: PHIL BUCHEN

FROM: RON NESSEN

Some weeks ago, Adam Clymer of the Baltimore Sun requested a copy of the White House payroll, including names and salaries. When nothing was forthcoming, he envoked the Freedom of Information Act.

He now tells me that he still has received no information or answer to his request. Clymer has been sympathetic to the President and the President's policies, and I do think we should give hime some kind of answer or else we may lose his understanding treatment of the President in his news stories.

RN/jb

THE WHITE HOUSE
WASHINGTON

NOTE FOR: Phil Buchen

FROM : RON NESSEN

Please suggest the appropriate answer.

R H a

cc: Jim Connor

MORNING EVENING SUNDAY

THE SUN

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347-8250

November 11, 1975

Ronald H. Nessen
Press Secretary to the President
The White House
Washington, D.C.

Dear Mr. Nessen:

This refers to the request I made informally to you on October 16.

I am writing to request access to the following files for the purposes of inspection and, if I so choose, copying:

The most recent payrolls of the White House office, the executive office of the President, and the Domestic Council, indicating the names and salaries of all personnel employed or on reimbursable detail in those offices.

As you know, the amended Act provides that if some parts of a file are exempt from release that "reasonably segregable" portions shall be provided. I therefore request that, if you determine that some portions of the requested information are exempt, you provide me immediately with a copy of the remainder of the file. I, of course, reserve my right to appeal any such deletions.

If you determine that some or all of the requested information is exempt from release, I would appreciate your advising me as to which exemption(s) you believe covers the information which you are not releasing.

I am prepared to pay costs specified in your regulations for locating the requested files and reproducing them, if I request reproduction, but if you anticipate that costs of locating the files will exceed $35.00, please telephone me at the above number before proceeding.

As you know, the amended Act permits you to reduce or waive the fees if that "is in the public interest because furnishing the information can be considered as primarily benefiting the public." I believe that this request plainly fits that category and ask you to waive any fees.

If you have any questions regarding this request, please telephone me at the above number.

As provided for in the amended Act, I will expect to receive a reply within ten working days.

Sincerely yours,

Adam Clymer

Adam Clymer

AC:slk

THE WHITE HOUSE
WASHINGTON

Date 1/8/76

TO: Connie

FROM: BARRY ROTH

ACTION:

_____ Approval/Signature

_____ Comments/Recommendations

✓ For Your Information

REMARKS:

Per our discussion.

Ron -
How you want this?
It's F.Y.I.
Barry

January 3, 1976

MEMORANDUM FOR: PHIL BUCHEN

FROM: BARRY ROTH

SUBJECT: FOIA Request for the Salaries and Names of all White House Employees

Adam Clymer of the Baltimore Sun has written to Ron Nessen requesting, on the basis of the Freedom of Information Act, a listing of all White House employees and their salaries. Although the White House is not directly subject to the FOIA, the White House personnel records are subject to CSC regulations, 5 CFR 294.701 (copy attached) which provide for the release of this information on request.

I have discussed this problem with both CarbGoodman, CSC General Counsel and Mary Lawton of OLC. Mary adds two points. Historically, information that included the names and salaries of all government employees was published by the Department of the Treasury in the early 19th Century. However, as the Federal government expanded, it became impossible to publish this centralized list, and the individual departments were instead responsible for responding to requests for such information. Since the FOIA became effective in the 1960's, the Department of Justice has consistently ruled that the release of information concerning the names, titles and salaries of Federal employees does not constitute an "unwarranted invasion of personal privacy" within the meaning of 5 U.S.C. 552(b)(6). However, this exemption does apply to other payroll information such as charitable withholdings, etc.

Additionally, if Clymer were to go directly to the CSC with this same request, in accordance with 5 CFR, part 293, we would be obliged to assist the CSC in providing this information. I am advised that since the early 1970's we have ceased to supply the CSC with a copy of our official personnel actions. Even so, the CSC regulations clearly apply to our records. As you will recall, the Attorney General's opinion on the ownership of President Nixon's papers pointed out that the personnel records were not considered to be the property of Mr. Nixon.

The following basic options, or combinations thereof, are available to respond to Mr. Clymer:

1) Provide the listing he seeks. Dudley and I recommend this approach for the information he seeks is considered to be within the public domain regardless of the non-applicability of the FOIA. This option is in line with the President's remarks for an open Administration.

2) Provide him with the names and salaries of the staff which has previously been announced through the Press Office. In addition, provide him with the information in the President's FY 1977 budget submission, once it is ready, regarding the pay grades, but not the names of White House employees. (Copy attached from FY 1976 budget.)

3) Provide him with the names and salaries of all employees of GS-13 or above, and the salaries without names of all other employees. This protects the privacy of the lower level employees, while being somewhat responsive to the request.

4) Respond that the FOIA is not applicable to the White House and provide no information.

I believe you should discuss this with Nessen and Connor to determine what position should be taken. Bob Linder has objected to providing information beyond that in the budget or which has been released previously through the Press Office in individual cases.

Attachments

MORNING EVENING SUNDAY

THE SUN

THE A.S. ABELL COMPANY, PUBLISHER
BALTIMORE, MD., 21203
WASHINGTON BUREAU
1214 NATIONAL PRESS BUILDING
14TH AND F STREETS, N. W.
WASHINGTON, D. C. 20004
347-8250

Phil
Jim

November 11, 1975

Ronald H. Nessen
Press Secretary to the President
The White House
Washington, D.C.

Dear Mr. Nessen:

This refers to the request I made informally to you on October 16.

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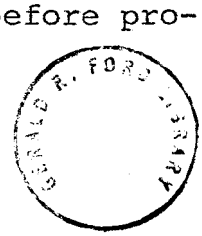

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As provided for in the amended Act, I will expect to receive a reply within ten working days.

Sincerely yours,

Adam Clymer

Adam Clymer

AC:slk

March 2, 1976

MEMORANDUM FOR: PHIL BUCHEN

FROM: RON NESSEN

This letter and presentation from the San Francisco Chronicle, requesting a Presidential pardon for "Tokyo Rose" was hand delivered to my office.

I have not written an acknowledgement and, obviously, I need some guidance from you on what, if anything, to say to the Chronicle.

Attachment:
SF Cronicle material

THE WHITE HOUSE
WASHINGTON

NOTE FOR: Connie G.

FROM : RON NESSEN

Please log and make sure Margeta and Mead see a copy for their Michigan media proposal.

R H N

THE WHITE HOUSE

WASHINGTON

April 15, 1976

MEMORANDUM FOR: RON NESSEN

FROM: PHIL BUCHEN P.

Bill Gill who is News Director of WOOD-TV in Grand Rapids has mentioned to me that he wrote you on April 1 seeking an opportunity to do an interview with the President sometime in June.

I would appreciate any assistance you can give in making arrangements; although, I realize the President's schedule makes it difficult to arrange for an extended interview.

THE WHITE HOUSE
WASHINGTON

4/19/76

NOTE FOR: Phil Buchen

FROM : RON NESSEN

Will you please draft a reply?

RHN.

MGMWSHT HSB
2-004046A102006 04/11/76
ICS IPMTINF NYK
06169 MGM TI NEW YORK NY 300 04-11 616P EST

western union Mailgram®

PRESIDENT FORD
WHITE HOUSE
WASHINGTON DC 20002

RN

FOLLOWING THE TEXT OF A TELEGRAM SENT TO PRESIDENT FORD, GOV. JIMMY CARTER, SEN. HENRY JACKSON, GOV. RONALD REAGAN, REP. MORRIS UDALL AND GOV. GEORGE WALLACE:

"AS YOU MUST KNOW, MORE THAN 1,700 NEWSWRITERS, ENGINEERS AND TECHNICANS AT THE NATIONAL BROADCASTING COMPANY HAVE BEEN LOCKED OUT BY THE COMPANY SINCE APRIL 8. OUR UNION WENT ON STRIKE ON APRIL 1ST AND THEN OFFERED TO RETURN TO WORK PENDING THE OUTCOME OF RENEWED CONTRACT NEGOTIATIONS UNDER FEDERAL AUSPICES. NBC REFUSED TO LET US RETURN TO WORK

" WHAT YOU DO IN THIS MATTER WILL TELL THE COUNTRY FAR MORE ELOQUENTLY THAN ANYTHING YOU SAY ABOUT YOUR ATTITUDE TOWARD UNIONS AND UNION WORKING MEN. THERE ARE MILLIONS OF US.

"THEREFORE, WE ASK YOU--BEGINNING AT ONCE--THAT YOU PROTEST AGAINST THIS LOCKOUT IN EVERY WAY OPEN TO YOU. WE ASK YOU NOT TO APPEAR BEFORE NBC CAMERAS AND MICROPHONES ANYWHERE AND OUR REASON IS THIS: ANYYTHING YOU DO OR SAY-- LIVE, ON FILM OR TAPE--IS IN FACT A CROSSING OF OUR PICKET LINES AND A DEFEAT FOR US IN OUR ATTEMPTS TO END THE LOCKOUT AND NEGOTIATE A CONTRACT.

"AGAIN, YOUR REFUSAL TO AID AND ABET THE NBC LOCKOUT IS ESSENTIAL TO THE SUCCESS OF OUR EFFORTS TO REACH AN AGREEMENT WITH NBC.

"YOU NEED NOT FEAR THAT COMMUNICATION WITH THE PUBLIC WILL BE SIGNIFICANTLY CUT OFF FOR YOU. THERE ARE LITERALLY THOUSANDS OF OTHER TELEVISION AND RADIO OUTLETS, NEWSPAPERS AND MAGAZINES STILL AVAILABLE TO YOU.

"WE URGE YOU ALSO TO DIRECT THOSE WHO WORK WITH YOU TO DENY NBC A PLACE AT THEIR PRESS CONFERENCES AND BRIEFINGS. AT LEAST ONE ADMINISTRATION OFFICIAL HAS ACTUALLY CROSSED THE PICKET LINE. THAT IS A FLAGRANT EXAMPLE OF UNION-BUSTING."

THE TELEGRAM WAS SIGNED BY ARTHUR KENT, PRESIDENT OF NABET LOCAL 11

END

21:59 EST

MGMWSHT HSB

RN

THE WHITE HOUSE

WASHINGTON

April 21, 1976

MEMORANDUM FOR: RON NESSEN

FROM: PHIL BUCHEN P.

SUBJECT: Leo Cherne, Chairman of PFIAB

Leo Cherne advises that there is an article in the New Times magazine which reports on his alleged improper use of the services of an FBI agent. This, I am told, is completely untrue, and if you get any questions on the matter, I suggest you refer them to me.

cc: Jack Marsh
Mike DuVal

(copy given to John 4-26-76 by cg)

THE WHITE HOUSE

WASHINGTON

May 19, 1976

MEMORANDUM FOR: RON NESSEN

FROM: PHILIP BUCHEN

SUBJECT: Chronology of Events Leading Up to Review by the Department of Justice of the Boston School Busing Case

1. November 20, 1975 - The President met with Attorney General Levi and others and asked the Attorney General to look for an appropriate case in which to present arguments to the Supreme Court respecting the type and scope of the equitable remedies being applied by the lower courts which remedies included mandatory busing along with other forms of relief.

2. February 17, 1976 - Jim Cannon, Director of the Domestic Council, sent a memorandum to the President which discussed along with other matters the possibility of initiating a review of various existing studies as to the effects of the busing remedies in [redacted] various cities where it had been applied; and Cannon proposed that the results of that study would assist the Department of Justice in presenting its argument when an appropriate case for doing so came to the Supreme Court.

3. February 1976 - The Solicitor General filed a brief with the Supreme Court in the Pasadena City Board of Education which included the following statement:

"The concern about transporting school children to accomplish desegregation is a legitimate one that may call for further attention of the Court in an appropriate case." Pasadena case

4. On April 27, 1976, the Solicitor General presented oral argument before the Supreme Court in which he said:

"The United States thinks that in an appropriate case, and some appear to be on the way to this Court, the proper scope of initial remedies in cases such as this should be reexamined."

5. Over the period November 20, 1975, to date, Philip Buchen, Counsel to the President, discussed with the Department of Justice progress being made to find a pending case in which it would be appropriate to ask the Supreme Court to review the desirable scope and type of equitable remedies in school desegregation cases.

6- Buchen told last Thurs Chas Ad looking at Boston. Did not tell Gf cimmed. Last Thurs nite, Brooks called. Gf re Boston.

THE WHITE HOUSE
WASHINGTON

May 21, 1976

To: Dick Cheney
Jim Cavanaugh
Ron Nessen

From: Phil Buchen

This came over from the
Attorney General and relates
to a matter discussed at a
meeting today with the President

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

Secretary Coleman:

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

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

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

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

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

insistence that he and he alone bears final responsibility for determining the government's legal position.

I will acknowledge that for a while I thought that the matter should be resolved by the Cabinet. I now feel and I am glad publicly to state it that I was wrong.

The Attorney General must decide this question just as the Secretary of Transportation had to decide the Concorde question without having to defer to the Cabinet or the President or even (and maybe this is hardest of all) his own trusted subordinates. On questions of law, the buck stops with the Attorney General.

THE WHITE HOUSE

WASHINGTON

July 1, 1976

MEMORANDUM FOR: RON NESSEN

FROM: PHILIP BUCHEN P.

SUBJECT: Suit started by Ramsey Clark

Ramsey Clark has today filed a suit in the United States District Court for the District of Columbia. It is brought against the Secretary of the Senate, Clerk of the House of Representatives and the Federal Election Commission.

The plaintiff claims standing to bring the action as a candidate from the State of New York for the U. S. Senate, and as a citizen and registered voter of that State. He cites the fact that he is opposed in the primary race by Bella Abzug as a sitting Member of the House and expects to be opposed in the general election by James Buckley as a sitting Member of the Senate.

The plaintiff complains that the provisions of the Federal Election Campaign Act, as amended, violate the constitution in allowing for a one-house Congressional veto of rules and regulations promulgated by the Federal Election Commission. He argues that these veto provisions deny the President the opportunity to veto Congressional actions and violates the constitutional separation of powers; further, that the plaintiff is deprived of his constitutional rights by provisions which allow incumbent officeholders to participate in vetoing regulations of the Commission.

By bringing this suit, the plaintiff is asking the court to decide the issues raised by the President when he on May 11, 1976, signed the bill amending the Federal Election Campaign Act. In his signing statement, the President said:

". . . these amendments jeopardize the independence of the Federal Election Commission by permitting either House of Congress to veto regulations which the Commission, as an Executive agency, issues. This provision not only circumvents the original intent of campaign reform but, in my opinion, violates the Constitution. I have therefore directed the Attorney General to challenge the constitutionality of this provision at the earliest possible opportunity."

It now appears that the suit brought by Ramsey Clark will afford an early opportunity for the Attorney General to participate in challenging the constitutionality of the congressional veto provisions. Previously, the Department of Justice had been exploring the most appropriate way for the issue to be presented for judicial decision and had tentatively come to the conclusion that the issue could best be raised by a party who was personally affected either as a voter or candidate by the operation of the regulations of the Federal Election Commission.

THE WHITE HOUSE

WASHINGTON

August 7, 1976

MEMORANDUM FOR: RON NESSEN

FROM: PHIL BUCHEN P.

Chuck Collins, who is the Producer of News at the Chicago Public Television Station WTTW has sent me a copy of his letter written to you on July 29.

I do not know Collins personally but he was very thoughtful in allowing me to receive an advance text for comment of a program he did concerning a friend of the President's which dealt in part with the President's relationships to that friend while he was in Congress.

Attachment

WTTW
Channel 11

5400 North St. Louis Avenue
Chicago, Illinois 60625
(312) 583-5000

Chicago
Public
Television

July 29, 1976

Mr. Ron Nessen
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Nessen:

Last March, all the anchormen from Chicago local news stations were invited to the White House to interview the President in a half-hour news format. That is, all the anchormen except WTTW's. During the President's swing through southern Illinois, I asked you if that could be rectified. You said that you would try to get us into the Oval Office with the others.

A few days later, I received a call from you, and you told me that there wasn't enough room. You further stated that you would try to arrange an interview in the future.

When Reagan came to town, he invited all the anchormen for a half-hour interview...including WTTW. We ran the entire half-hour.

The Ford interview was hardly used at all by the commercial stations. We would have run the entire interview.

Although we are a public television station, more viewers watch our station than any other public station in the country. We believe in thorough coverage. Our Presidential Primary Special won an Emmy. We have interviewed every presidential candidate at least once, except President Ford. We have interviewed Reagan twice and Carter three times

It is our understanding that the President will be in Chicago on October 7 and possibly in September for a Jim Thompson campaign dinner. We would hope that an interview could be arranged at that time. We would like to do a half-hour interview at any time or place convenient for the President.

Sincerely,

Chuck Collins
Producer
WTTW News Division

CC:mmm
Enclosure
bcc: Mr. Philip Buchen

PBS STATIONS

TOP 27 STATIONS, PERCENT OF METROPOLITAN AREA HOUSEHOLDS REACHED PER WEEK
SIGN ON - SIGN OFF
(Source: As Published in Nielsen Station Index)

	CALL LETTERS	CHANNEL	DESIGNATED MARKET AREA	MAY 1976	MAY 1975
1.	WTTW	11	Chicago	59%	38%
2.	WNET	13	New York	50	49
3.	KUAT	6	Tucson (Nogales)	48	42
3.	WHA	21	Madison	48	42
5.	KAID	4	Boise	47	50
6.	KHET	11	Honolulu	46	36
6.	KNME	5	Albuquerque	46	37
8.	KAET	8	Phoenix	45	40
8.	WGBH	2	Boston	45	44
8.	WMVS	10	Milwaukee	45	36
8.	WXXI	21	Rochester, N.Y.	45	49
12.	KDIN	11	Des Moines-Ames	43	38
12.	WPBT	2	Miami-Ft. Lauderdale	43	30
14.	WJCT	7	Jacksonville	42	31
15.	KTWU	11	Topeka	40	(25)
16.	WVIA	44	Scranton-Wilkes Barre	39	42
17.	KETA	13	Oklahoma City	38	31
17.	KQED	9	San Francisco-Oakland	38	36
19.	KRMA	6	Denver	37	37
19.	KUON	12	Lincoln	37	32
21.	KOAP	10	Portland, Oregon	36	35
21.	WEDH	24	Hartford-New Haven	36	33
21.	WNED	17	Buffalo	36	30
21.	WQLN	44	Erie	36	36
25.	WMHT	17	Albany-Schenectady-Troy	35	36
25.	WQED	13	Pittsburgh	35	33
25.	WYES	12	New Orleans	35	34

THE WHITE HOUSE
WASHINGTON

TO: Ron

FROM: CONNIE ~~GERRARD~~

You wrote Collins
the attached letter.

THE WHITE HOUSE

WASHINGTON

August 7, 1976

MEMORANDUM FOR: RON NESSEN

FROM: PHIL BUCHEN P.

Attached is a copy of a message from the President to the annual meeting of the American Bar Association, which I will read for him on Monday, August 9, in Atlanta, Georgia.

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."

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

THE WHITE HOUSE

WASHINGTON

September 23, 1976

MEMORANDUM FOR: BILL RHATICAN

FROM: PHIL BUCHEN P.

Attached is a brochure from the LBJ Library, which on page 14 reproduces a letter written from Governor Carter to President Johnson on December 18, 1972.

I understand that this letter was reproduced in Texas newspspers today. It shows Carter's view of the former President has altered considerably between 1972 and the time he gave his Playboy review.