

Trip to Camp David and New York for the Convention, 8/9/80-8/19/80

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| FORM OF DOCUMENT | CORRESPONDENTS OR TITLE | DATE | RESTRICTION |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-------------|
| memo w/att | From Cutler to The President (13 pp.) re: Iranian Demonstrations OPENED 11/30/97 | 8/7/80 | A |
| memo w/att | From Eizenstat to The President (2 pp.) re: Status of Voluntary Import Restraints by the Japanese opened per RAC NLC-126-22-13-1-2 1/10/14 | 8/8/80 | A |

FILE LOCATION

Carter Presidential Papers- Staff Offices, Office of the Staff Sec.-Pres. Hand-writing File Trip to Camp David and New York for Convention 8/9/80-8/19/80 BOX 200

RESTRICTION CODES

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- (B) Closed by statute or by the agency which originated the document.
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THE WHITE HOUSE
WASHINGTON

Q
out-let
8/10/50

Hold

Pres. comments
to Lloyd via
Marion in N.Y.
Also see Phil's
note. SB

Susan -

I told cutter of P's
remarks by phone -

Phil

CAMP DAVID

THE WHITE HOUSE

WASHINGTON

August 7, 1980

ADMINISTRATIVELY CONFIDENTIAL
(with SECRET attachments)

MEMORANDUM FOR THE PRESIDENT

FROM: LLOYD N. CUTLER

SUBJECT: IRANIAN DEMONSTRATIONS

This memorandum summarizes what happened to your instructions of last November that demonstrations by Iranian students and counter-demonstrations were not to be allowed on the White House sidewalk, Lafayette Park, the Capitol grounds or other federal property except with your approval on a case-by-case basis.

1. On November 8, 1979, the Attorney General sent you the attached memorandum stating that, on your instructions, the permits previously granted for two demonstrations in Lafayette Park were being revoked, and that the revocation would be defended in Court. It also states that the Secretary of the Interior was amending his regulations so that permit applications for the White House sidewalk and Lafayette Park would not be granted automatically but would require the express approval of the Secretary. You wrote "good" on the margin.

2. On November 15 the Attorney General sent you a second memorandum urging that the situation had now changed and that request for further permits to demonstrate in Lafayette Park should be granted. You wrote back in the margin:

"Ben, I strongly prefer that we do our best to prevent permits being issued for pro- or anti-Iranians until hostages are free. Take our case to Court if necessary".

3. On November 16 the ACLU obtained a district court injunction against the denial of the first two permits. That same afternoon the Court of Appeals reversed and upheld your action. The Court's opinion is very short and is worth quoting:

"In the unique circumstances of this case, the Court is of the view that it should accept the representation of the State Department that a demonstration at Lafayette Park has an unacceptable potential for danger to the hostages now being held in the American Embassy in Tehran. The fact that other nearby sites are available to appellees is a material consideration in our conclusion. This availability has been confirmed by the letter of the Government filed with the Clerk today."

4. On November 26 the Attorney General wrote you a further memorandum of which we have been unable to locate a copy in your files. His office is now checking to make sure it was received. It states in essence that so long as there is no change in the situation in Iran we will continue to oppose permits for Iranian demonstrations in Lafayette Park and in front of the White House. It notes the importance of judging each application on a case-by-case basis and recommends that from here on out this task can be performed by the Secretary of the Interior and the experienced people in the Park Police and the Metropolitan Police.

5. From time to time thereafter particular permit applications were discussed at the SCC. My recollection is that in each case the police worked out an agreement with the demonstration leaders which kept them out of Lafayette Park and away from the White House sidewalk.

6. There were practically no permit applications involving Iranian groups from February until July.

7. Beginning in July the Park Police began granting a few permits for Iranian demonstrations in Lafayette Park, apparently without the express approval of the Secretary. No adverse incidents occurred. No one at the White House was consulted or informed.

8. The same thing happened when the Park and Metropolitan Police granted permits for the two demonstrations on July 27 that resulted in disorderly behavior and the arrest of

*Foolish
Almost
caused
serious
damage*

the 192 students who refused to give their names. It also happened for the permit to the hunger strike demonstrators on the White House sidewalk.

9. Earlier this week permits were requested for an Iranian demonstration in Lafayette Park today and for a Muslim anti-Zionist demonstration tomorrow. Interior consulted Justice which convened a group from Interior, Justice, State and the Metro Police. The group decided to issue the permits. No one from the White House was invited to the meetings or informed of the result.

10. After our discussion this morning, I raised the issue of the hunger strike permit with Secretary Andrus, Judge Renfrew, Warren Christopher, and Deputy Chief Klotz of the D.C. Police. In doing so, I learned for the first time of permits for the demonstrations today and tomorrow. After consulting with Jack Watson, I instructed Secretary Andrus and Judge Renfrew that your restrictions remained unchanged and that the demonstrators should be told that the permit for Lafayette Park was revoked and that they could not enter the Park but would have to go to an alternate location.

11. At that time (noon - when the demonstration began), it was anticipated that the marchers would not reach the park until 3:00 p.m. However, because Chief Klotz was concerned about violence from hecklers along the parade route, he arranged with the marchers that they assemble in Lafayette Park instead shortly after noon, with an understanding that they would leave within 1/2 to one hour. They were already in the park by the time Secretary Andrus could reach the Park Police. The Park Police confined them to the middle of the park and they moved out voluntarily in buses provided by the metropolitan police between 3:00 and 4:00 p.m. Before that they had been joined by the hunger strikers who abandoned their station on the White House sidewalk to be with the marchers. As a result the hunger strike permit has now expired and will not be renewed.

12. The Lafayette Park demonstration today apparently passed without arrests or violence. We have instructed all concerned that you wish to review any further cases before permits are granted and that you want a report and recommendation early tomorrow morning on revoking the permit for the demonstration in Lafayette Park tomorrow.

13. I have not heard any convincing explanation as to why your instructions of last November were considered by the agencies to have lapsed or why no one at the White House was consulted or informed about each recent decision to grant a permit.

*There is
none*

Good
J



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

November 8, 1979

Department of Justice Status
Report on Iran-Related Actions

[Handwritten signature]

Demonstrations by Iranians

1. The permit to demonstrate in Lafayette Park issued to Iranian students by the Department of Interior has been revoked by the Secretary.
2. The Attorney General has asked Mayor Barry and the D.C. Chief of Police to attempt to dissuade Iranian students from demonstrating in the District of Columbia. As a second position, the Mayor and Chief of Police will try to negotiate an agreement for the demonstration by Iranian students to be confined to areas away from the White House, Capitol and Pennsylvania Avenue. The Mayor and the Chief have pledged to use their best efforts.
3. In the event persuasion fails, a motion for a temporary restraining order is being drafted which would ask the court to enjoin demonstrations near the White House, Capitol or on Pennsylvania on the theory that any violence arising from these demonstrations is very likely to cause immediate, direct harm to the American hostages held in Iran.
4. A broader request for an injunction which would prohibit demonstrations anywhere in the Capital of the United States is also being prepared.
5. A teletype has been sent to all United States Attorneys instructing them to ask local officials to give notice of all requests for demonstration permits by Iranians, and to ask local officials to limit demonstrations as much as they legally can.

Classified by the Attorney General
Reason for Classification: Foreign Relations
Review for Declassification: 11/8/99

cc. Brzezinski

DECLASSIFIED
E.O. 12958, Sec. 3.6
PER 9/3/16 (D) HRE NLC-92-156
BY *[Signature]* NARS DATE 4/20/26

6. An emergency modification of Department of Interior regulations is being prepared which would prohibit the issuance of a permit to Iranian students to demonstrate on property under the aegis of the Department of Interior unless approved by the Secretary. This emergency regulation would be effective for seven days and would suspend the regulation that requires action by Interior within twenty-four hours.

Current Deportation or Departure of Iranians

There are 1,037 current deportation proceedings against Iranian students in which orders to show cause have been issued and the cases are in various steps of the administrative process.

218 out-of-status Iranians have been deported or were granted voluntary departure in the last six months. In the same period 60,000 Iranians left the United States without the Government asking them to leave.

Prospective Deportation of Iranians

1. The Immigration and Naturalization Service is prepared to conduct an updated survey to identify out-of-status Iranian students presently in the United States for immediate institution of deportation proceedings under present law.

2. Memoranda of legal analyses of the authority to effect, and drafts of implementing regulations, orders or statutes are being prepared for the following:

- a. Summary revocation by Executive Order or a statute of all nonimmigrant visas of Iranian nationals, or any subset thereof.
- b. Abbreviation of the procedure required to deport out-of-status Iranians under the present law, or legislation to accelerate this process.
- c. Expulsion or detention of representatives of the Iranian Government presently in the United States.

3. The Immigration and Naturalization Service is preparing an estimate of the time it would take to expel a given number of Iranians if the deportation process can be accelerated and voluntary departure encouraged by institution of deportation proceedings.

4. Regional Directors of the Immigration and Naturalization Service have been instructed to ask local officials to detain

arrested Iranian demonstrators until they are questioned by INS officials to determine whether or not they are subject to deportation proceedings.



~~SENSITIVE~~

~~CONFIDENTIAL~~
cc Ben
J

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

November 8, 1979

MEMORANDUM TO: The President
FROM: Benjamin R. Civiletti
Attorney General *B. Civiletti*
SUBJECT: Iranian Student Demonstrations

The following is a summary of the central constitutional and other legal principles relevant to the current and proposed demonstrations by Iranian students in the City of Washington. Principally due to the actions taken by the Nixon Administration to impede and interfere with anti-war demonstrations, this is an area of law as to which there has been a great deal of writing both by the Supreme Court and by the federal courts in the District of Columbia. The controlling considerations can be briefly articulated.

First, under our Constitution, persons in this country legally or illegally - whether aliens, out-of-status students or others -- are entitled to the same First Amendment protections and rights as citizens. Thus, to whatever extent our Constitution confers rights to engage in marches, demonstrations, or speeches, those rights are available to citizens and non-citizens alike. Of course, courts will look at the particular circumstances in each case, and the identity, nationality, or other attributes of the individual demonstrators may in some cases be relevant in applying the controlling legal standards.

Second, as you well know, the First Amendment guarantees to all persons the right to "free speech," -- including the right to march or demonstrate. That right is not absolute. Courts have long recognized the power of the Government to regulate the time, place, and manner in which these activities are conducted. However, because the City of Washington is the seat of Government, and because there is special symbolism associated with the Capitol, White House and other federal facilities, the courts have recognized a special right to

~~SENSITIVE~~

"DETERMINED TO BE AN ADMINISTRATIVE MARKING
CANCELLED PER E.O. 12356, SEC. 1.3 AND
ARCHIVIST'S MEMO OF MARCH 16, 1983"

assemble and to engage in speech here. Indeed, as a result of the cases that arose out of the Vietnam Veteran, May Day, Cambodian Incursion and other demonstrations during the Nixon Administration, the law with respect to the use of these particular facilities in this city is fully developed. Again, as you would expect, it establishes broad First Amendment rights to demonstrate here and imposes very strict limitations on the ability of the Government to regulate or interfere with Washington demonstrations.

Persons are legally entitled to receive permits to demonstrate at the Capitol, White House sidewalk, and Lafayette Park unless the Secretary of Interior and other appropriate officials determine that those demonstrations will occasion a "clear and present danger" to life, property, or order. On the basis of an affidavit from the Secretary of State outlining the potential harm to hostages, all permits have been denied or revoked. Therefore, this student group -- the Moslem Student Association -- has now no permission to demonstrate on these federal premises.

No one would question that the enormity of the possible consequences in this case would satisfy the "clear and present danger" standard: the "danger" could hardly be more clear. But the gravity of the possible injury is only one part of the equation. Because of the fundamental and essential nature of First Amendment rights in a free society, the cases require that there be a convincing showing that these extreme consequences will flow immediately, directly and necessarily from the demonstration. It is on this issue that our proof may be found lacking. On the basis of law enforcement assessments available at this time and those likely to be obtainable, it is difficult to make the case that the danger is indeed "present," i.e., that there is evidence of a direct, causal link between the proposed demonstrations and tragedy in Tehran. We can clearly show that if this demonstration ends in violence, there is serious risk of death in Tehran. However, we have no evidence or compelling reason to believe that violence will occur if the demonstration goes forward. To the contrary, the evidence available now suggests that these will be peaceful vigils and marches. Moreover, the District and Park police officials involved have all advised and would testify that they have a better opportunity to prevent violence if the demonstrators are marching with a permit in prescribed areas than if permits are denied and the demonstrators appear at random in the city.

SENSITIVE

Third, on the streets and on land other than federal property in the District of Columbia, persons have a Constitutional right to gather and speak, and no permit is required. The students now have a right to gather and walk from place-to-place or engage in vigils so long as they do not obstruct traffic. While it would be procedurally possible for the Government to go to court and seek to enjoin even these activities, the constitutional standard is extremely high for the issuance of such a prior restraint which the courts have analogized to a suspension of the First Amendment. The Government would have the burden of proving to the Court that the First Amendment activity poses a "grave, immediate, and irreparable" threat to the lives of our hostages in Tehran. As with the "clear and present danger" test, we have no question of our ability to persuade any court that the "harm" here is of the highest order, but again we have little basis for showing a court that the harm will flow "directly" and "immediately" from these student marches.

Such a Court injunction against all speeches and demonstrations to be issued in advance of the activity carries the heaviest burden, and requires the courts to apply standards that failed to satisfy the Supreme Court in cases such as the Pentagon Papers case where the showing of threat to life as well as the foreign relations of the United States was strong. Without evidence of the likelihood of confrontations or violence here by the participating demonstrators, it is highly unlikely that a court would grant a request for such an injunction. We know of no case in which a court has been willing to sustain an injunction as broadly applied as this one would need be.

Finally, these cases that have established the legal standards for demonstrations here in the District of Columbia have also become the vehicles for defining the civil liabilities of Federal Government officials. In a series of rather celebrated cases in the last few years, it has become established that law enforcement officers and their supervisors may be held personally accountable in money damages to persons who are prevented from exercising their speech rights. In order successfully to avoid a judgment of civil liability an official like the Secretary of Interior must be able to show that he had no basis for knowing that his action was outside the law. Stated differently, if an official "ought to know" that he is acting beyond the authority that the laws and the Constitution and the cases provide, he may be subjected to liability. Neither the fact that he is acting with the best of motives, nor that

SENSITIVE

he is carrying out an explicit direction from the President or anyone else, will shield him from possible personal liability. Each of the actions described above -- revoking permits, barring demonstrations, etc. -- carries with it this prospect, and each action must be assessed in light of the reasonableness of its legal basis.

In the final analysis the most difficult of the legal questions will be resolved not by the court in ruling on an injunction or on a civil suit against our officials. The most difficult questions are ultimately yours to make before any court actions are initiated. Because of your duty to take care that the laws be faithfully executed, and because of mine to aid you in that constitutional function, we have to decide whether the law empowers or forbids Government action. Of course, that judgment will not be made in a vacuum or on the basis of hypothetical circumstances. We have endeavored to assure ourselves that we have as much information as possible and that we have carefully considered the legal alternatives. Prepared in that fashion we should be in a position to make the difficult judgments should that be required.

*You can submit individual
issues or proposals to me
as required -*

J. C.

SENSITIVE



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

November 15, 1979

copy 11/10/79
Den - I strongly
prefer that we do
present permits being
issued for Pro- or
Anti- Iranian until
hostages are free.
Take our case to
Court if necessary

MEMORANDUM TO: The President

FROM: Benjamin R. Civiletti
Attorney General *BRC*

SUBJECT: Iranian Student Demonstrations

J.C
cc Cy
Zbig

On November 8, 1979, I sent you a brief memorandum outlining the constitutional standards that govern the overnment in granting or denying permission to Iranian students and others to march and demonstrate in Washington, D.C. In essence, it set forth the very strong constitutional right to demonstrate under the First Amendment. Within the perimeters of that memorandum and with factual basis, we have advised the Department of Interior that we will defend their denial of two permits for Lafayette Park.

In anticipation of such a defense, we have investigated carefully the available factual representations in order to prove them in court. The factual basis for claiming and exercising a right to deny permits was the representation of the Secretary of State that any violent altercation in a demonstration, subjecting Iranians to injury by counter-protestors or arrest by police, would result in grave risk of death or physical harm to the American hostages in Tehran. Without any experience of a demonstration in this crisis, the police represented some uncertainty of preventing the result found by Secretary Vance to pose the grave risk. Lafayette Park's proximity to the White House, the symbol of the Federal government, was believed to affect both the risk of altercation and the threat of harm in Tehran.

The facts and circumstances have changed.

There is no doubt that the lives of Americans remain in jeopardy in Tehran. There is no doubt that significant violence to or arrests of Iranian students in Washington would pose a very grave threat of harm to the American hostages. But there is no sustainable legal basis on which to distinguish between violence to or arrests of Iranians at one location (Lafayette Park) or another in Washington. More importantly,

there is no reasonable basis on which to assert that a demonstration in this city at Lafayette Park or another location would result in injury to or arrest of Iranians. The Park Police and the local District of Columbia police have demonstrated, again, in this crisis that they can control and protect those who wish to exercise their right to march or demonstrate. Moreover, they state very strongly that they can and will protect demonstrators (Iranians or not) from violence. They will not testify that there is a serious prospect of harm to Iranian demonstrators that the Secretary of State fears will trigger a response in Iran.

Even our prior position and present view are undercut by incidents around the country involving Iranians, in some instances controlled well by state and local authorities and in a very few resulting in Iranian student arrests without the provable adverse result to the American hostages.

We have now a notice for Tuesday, November 20, 1979, of a demonstration by an American organization called the Students in Opposition to Violence. The demonstration is to begin at Lafayette Park, and the demonstrators plan to march through Dupont Circle and finish at the Iranian Embassy on Massachusetts Avenue. While the leadership is American and the demonstration will likely be composed primarily of American citizens demonstrating against the captors in Iran and urging tolerance of Iranian students in this country, the group will include some Iranian students. We anticipate that there will be other permit requests for Lafayette Park and requests for marches and assemblies from time to time on non-permit properties.

On the basis of the facts available to us today and likely facts available to us over the next several days, it is my firm opinion that we cannot legally deny the right to persons, Iranian or American, who do not have some provable record of violence themselves, to demonstrate on federal properties in Washington in support of or in opposition to United States policy in Iran.

We will continue to do everything possible to try to develop facts relevant to these issues and closely monitor and scrutinize all requests for permits in Washington to assure that there will be no violence or altercations which will endanger the American hostages. If the facts indicate the demonstrators will commit violence, we will try to severely limit or restrict their opportunity to do so. If the facts indicate peaceful

demonstrators may be subject to violence, we can even call on extraordinary steps to assist the municipal and Park Police if they have any doubt with regard to the safety of the demonstrators.

cc: Secretary of State
Counsel to the President

Dear Mr President

I share deeply revulsion at the views of students or anyone here supporting the vicious acts of terrorism against our people in Tehran. I pray for your strength & their freedom.

Ben

THE WHITE HOUSE
WASHINGTON

Port 8/12/80

Stu's cc attached

THE WHITE HOUSE
WASHINGTON
August 8, 1980

9

MEMORANDUM FOR THE PRESIDENT

**Electrostatic Copy Made
for Preservation Purposes**

FROM: STU EIZENSTAT *Stu*
SUBJECT: Iranian/INS Situation

Although I have not been involved in this matter, I was struck by the profound concern you had over the release of the Iranians and the potential threat of a strike by INS officials in New York.

I received a call from Ken Blaylock, President of the American Federation of Government Employees, and a person whom I think is very trustworthy.

He stated that members of the Union who have worked on this matter with the INS state that, contrary to the press statements saying that this matter was handled properly, this in fact was not the case. He said that 58 of the people were found to be illegally in the country to begin with. He also stated that the persons arrested had no I-94 forms or passports on them and that this itself was grounds for deportation. He further stated that some 81 had been processed by INS when "word came from the top" to forget about the processing because these people were going to be released anyway.

His INS people are convinced that the Department of Justice called the shots and that when you asked for the Justice Department to review this situation they were, in effect, investigating themselves. He stated that he believes (as do I) that the handling of the situation is a very explosive matter in this country given the emotions. He stated that all of the facts he mentioned will have to be brought out to protect his own INS people since they are being blamed for having mishandled the case. He stated he does not know who called the shots in this decision but that it was critical from your standpoint to get to the bottom of it.

Gene Eidenberg is out of town and I have been unable to reach him on this. I did want you to get the benefit of Mr. Blaylock's views.

cc: Jack Watson
Gene Eidenberg
Landon Butler

THE WHITE HOUSE

WASHINGTON

August 8, 1980

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cc: Jack Watson
Gene Eidenberg
Landon Butler

THE WHITE HOUSE
WASHINGTON

8/9/80

To Phil Wise

From Susan Clough

Please deliver to the
President as soon as possible.
Also, he should know that
this was delivered to me
this morning.

THE WHITE HOUSE

WASHINGTON

August 8, 1980

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*

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cc: Jack Watson
Gene Eidenberg
Landon Butler

IMMEDIATE
PRECEDENCE

UNCLAS
CLASSIFICATION

FOR COMMCENTER USE ONLY

FROM: Susan Clough
TO: Phil Wise

DEX _____

DAC 40 _____

GPS _____

LDX _____

PAGES 2 _____

TTY _____

CITE _____

INFO:

DTG: 091527z Aug 80

RELEASED BY: DAM

TOR: 091535z Aug 80

SPECIAL INSTRUCTIONS:

1980 AUG 9 15 27

WHCA
SITUATION ROOM

6 9 11:42

RECEIVED

THE WHITE HOUSE
WASHINGTON

8/15/80

from CD thru SSC
notified Carol-Stu's
ofc. that it was
Out.

Did not send cc's
to Stu.

cc attached which
obviously went into P
alone w/ m: 1

THE WHITE HOUSE

WASHINGTON

August 8, 1980

*one copy
advised*

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*

SUBJECT: Status of Voluntary Import Restraints by
the Japanese

Attached is a cable from Ambassador Mansfield in Tokyo which indicates the Japanese are not interested in a voluntary restraint program and presumably disavowing the information we received from two sources here. The cable indicates that "MITI at the present time has no thought or plan of imposing through legal means voluntary restraints of automobile exports to U.S."

Although the cable seems to leave the door open, saying that "the Japanese government had not made any decision whether or not to engage in voluntary restrictions" it would be my recommendation that we not pursue the matter further or we will have to get into the type of negotiations which I believe none of your advisers would recommend.

OP IMMED
DE RUEHKO #3887 2200942
O 070935Z AUG 80 ZFF4
FM AMEMBASSY TOKYO

TO SECSTATE WASHDC IMMEDIATE 0777

INFO WHITEHOUSE WASHDC IMMEDIATE

~~CONFIDENTIAL~~ TOKYO 13887

NO DIS
E.O. 12065: GDS 07/7/86 (IMMERMAN, ROBERT) DR-M
TAGS: ETRD, JA
SUBJECT: MITI INITIATIVE ON JAPANESE AUTOS
REF: STATE 207663

1. (C-ENTIRE TEXT).

2. BECAUSE OF AMBASSADOR'S DESIRE TO AVOID POSSIBLY MIS-LEADING PUBLIC REACTION IN JAPAN WHICH COULD RESULT FROM HIS CALLING ON MITI MINISTER TANAKA, HE DIRECTED ACTING ECONOMIC MINISTER TO CHECK THE AUTHENTICITY OF THE ALLEGED MITI POSITION REPORTED REPTEL. AEMIN WAS INFORMED BY MITI DEPUTY-DIRECTOR GENERAL FOR INTERNATIONAL AFFAIRS MANO IN THE PRESENCE OF MASAHISA NAITO, DIRECTOR OF THE AMERICAS OCEANIA DIVISION, THAT MITI HAS NO KNOWLEDGE OF THE PERSONS PURPORTING TO REPRESENT MITI VIEWS NOR OF THE CONTENTS OF ANY COMMUNICATIONS FROM THEM.

3. MANO WENT ON TO CLARIFY CURRENT MITI POSITION WHICH MITI OFFICIALS HAD DISCUSSED AT AUGUST 4 MEETING WITH PRIME MINISTER SUZUKI. ACCORDING TO MANO, MITI AT THE PRESENT TIME HAS NO THOUGHT OR PLAN OF IMPOSING THROUGH LEGAL MEANS VOLUNTARY RESTRAINTS OF AUTOMOBILE EXPORTS TO U.S. AT THE MOMENT MITI WOULD LIKE TO CONTINUE TO WATCH HOW U.S. INDUSTRY AND THE U.S.G. WILL RESPOND TO THE SITUATION EVEN AS IT ON ITS PART REQUESTS THE JAPANESE INDUSTRY TO EXPORT IN AN ORDERLY MANNER. MANO ADDED THAT ALTHOUGH PRESS REPORTS OF THE AUGUST 4 MEETING HAD NOT BEEN ENTIRELY CLEAR ON THAT POINT, THE JAPANESE GOVERNMENT HAD NOT MADE ANY DECISION WHETHER OR NOT TO ENGAGE IN VOLUNTARY RESTRICTIONS.

DECLASSIFIED
Per: Rac Project
ESDN: NLC-126-22-13-1-2
BY: /CS NARA DATE 1/2/14

4. WE BELIEVE MANO'S REPLY AUTHORITATIVELY REFLECTS THE

*****WHSR COMMENT*****

ZB WEL DEN VP ODOM
EOB:DEAL, GREGG

PSN:030685 RECALLED PAGE 01 TOR:220/09:51Z DTG:070935Z AUG 80

CURRENT JAPANESE POSITION. NAITO WAS AT THE MEETING WITH PRIME MINISTER SUZUKI, AND MANO EXPRESSLY REFERRED TO THE SUZUKI CABINET IN REITERATING THAT NO DECISION HAD BEEN MADE ON THE ISSUE. IN THE LIGHT OF THIS GOJ RESPONSE, EMBASSY HAS TAKEN NO FURTHER ACTION.
MANSFIELD
BT

PSN:030685 RECALLED PAGE 02 OF 02 TOR:220/09:51Z DTG:070935Z AUG 80

THE WHITE HOUSE
WASHINGTON

8/15/80

from CD thru SSC

(Another one - don't know
why P got all
these copies.)

Hold

(have not notified
anyone or cc'd
anyone) SB



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

*Susan
one copy "
adequate
J*

August 9, 1980

**Electrostatic Copy Made
for Preservation Purposes**

MEMORANDUM FOR: THE PRESIDENT
FROM: JIM McINTYRE, JR. *Jm*
SUBJECT: Budget Effects of Republican Tax Program

In your Urban League speech referring to Republican tax proposals, you said: "If moderate increases are made in the Defense budget, if the Social Security program is just protected and not improved, and the budget is balanced, every other agency and department and program in the Federal Government would have to be eliminated 100 percent."

I have reviewed the budget assumptions needed to make such a statement and would recommend that you say the following instead: (This language is now in the draft of the economic section of your acceptance speech.) "On top of this gigantic cut, the new Republican leaders promise to protect retirement and health programs, make massive increases in Defense spending and balance the budget. If they actually tried to put this Republican program into effect, the entire rest of the government would have to be abolished."

You should note that it is implicit in this statement that the government would continue to pay interest owed on the national debt. With respect to defense, this statement assumes that Reagan would increase real defense spending 5% per year faster than in your five-year defense plan. Retirement programs include Social Security, railroad retirement, and Federal military and civilian retirement. Health programs include Medicare and Medicaid benefits.

We will have the detailed analysis you requested ready immediately after the convention.

THE WHITE HOUSE
WASHINGTON

from CD

three SSC

8/15/80

-5A



FEDERAL EMERGENCY MANAGEMENT AGENCY

Washington D.C. 20472

August 9, 1980

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for Preservation Purposes

MEMORANDUM FOR: Eugene Eidenberg
Secretary to the Cabinet
and Assistant to the President
for Intergovernmental Affairs

FROM: John W. Macy, Jr., Director *JWM*

SUBJECT: Executive Summary #1 - Hurricane Allen

Preparations have been underway in anticipation of Hurricane Allen making a landfall along the south coast of Texas. Beginning August 5, 1980, and continuing through the present, FEMA Regions IV and VI have taken the following preparatory measures, for a potential disaster situation:

- o FEMA Regions have made contact with the States of Texas (R-VI), Louisiana (R-VI), Mississippi (R-IV), Alabama (R-IV) and Florida (R-IV) all of which could still be affected by this Hurricane. Communication has been established, information exchanged, and potential problems discussed.
- o Immediate and continuing contact with the National Hurricane Center, Miami, and the National Weather Service is being maintained by the FEMA DR&R Operations Center and respective Regions.
- o Contact of FEMA reserve staff members to determine their availability is in process in the National and Regional Offices.
- o Preliminary contact has been made with the General Service Administration for logistical and other support; (1) R-IV reports a meeting held with GSA on August 7, (2) R-VI reports that the Fifth Army and GSA have been requested to provide liaison officers to FEMA Region VI.
- o Both FEMA Regions IV and VI are reviewing and preparing all materials and supplies for possible field operations.

- o FEMA DR&R Operations Center has staffed up for sustained operations and Region VI has activated the Federal Regional Council Disaster Information Center (FRC DIC) (FTS phone 749-9231) as of 10:30 a.m. on August 7, 1980.
- o FEMA Region VI reported that a meeting was held yesterday with Volunteer and Federal agencies to discuss plans for responding to the disaster situation.
- o The FEMA DR&R Operations Center has alerted the Department of Defense of the potential for military support and principally for special communications equipment and capabilities.
- o The National DR&R Individual Assistance Office has identified the personnel and resource requirements for a mobile home delivery operation.
- o Personnel who have received training in the Combined Verification and Application Program have been placed on standby.
- o Late this morning the Red Cross reported that 194 shelters had been opened in south Texas and between 65,000 and 70,000 individuals are being sheltered. They expect this number to increase later today.
- o Region VI reports that between 150,000 and 200,000 individuals have evacuated the south coastal areas of Texas. Indications are that some are moving inland as far as Dallas.
- o For the purpose of assuring prompt damage assessments, Region VI has Federal personnel, with appropriate transportation, standing by in San Antonio and Austin, Texas. Liaison has been established with counterpart State personnel.

I was briefed by Dr. Neil Frank, Director, National Hurricane Center at 11:00 a.m. today - Dr. Frank reiterated that Allen is a "very, very severe" hurricane. During the last two hours the hurricane had slowed in its forward movement from 15-18 mph to 10-12 mph. This will probably cause strengthening of the winds to 170 mph with gusts to 185. He indicated that the eye was "wobbling" and would probably make a landfall in the vicinity of Brownsville, Texas by

3

sunset this evening. This hurricane is packing a great deal of moisture and there will be heavy rainfall (possibly up to 15 inches) along the Texas coast and in the Rio Grande River Valley. Also, some tornadoes are being spawned from the hurricane with only minor damage reported at this time.

However, a FEMA employee in Corpus Christi reports a Red Cross estimate that perhaps as many as 50,000 people in the Brownsville area who should do so, had not evacuated their homes by mid-morning. Evacuation efforts continue.

We are advised that rescue efforts for a tanker off Corpus Christi have been abandoned because of high seas.

THE WHITE HOUSE
WASHINGTON

from CD

Three 55c

8/15/80

-SB

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

August 11, 1980

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EYES ONLY

MEMORANDUM FOR THE PRESIDENT

From: Charlie Schultze *CLS*

Subject: Retail Sales in July (to be released at
2:30 p.m., Monday, August 11)

Retail sales rose by a healthy 2 percent in July, after an upward revised 1.4 percent gain in June. A large part of the July increase was in autos (up 8 percent). Other retail sales rose 0.75 percent, which is probably more than the July increase in retail prices.

For two months now retail sales, outside of autos, have increased slightly faster than inflation. The decline in consumer spending seems to have halted, and auto sales have moderately improved. No major upsurge in consumer spending is likely, however.

THE WHITE HOUSE
WASHINGTON

8/11/80

cc to Lynn Daft.

Lynn Daft notified by phone
8/10/80 by Suzanne Brooke.

Stu Eizenstat notified (NY)
8/11/80 via Marion Bartle.

-- Suzanne Brooke

(president's out-box 8/10/80)
(CD)

THE WHITE HOUSE
WASHINGTON

August 9, 1980

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MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
LYNN DAFT *Lynn*
SUBJECT: Processing the Anticipated Major
Disaster Declaration for Hurricane
Allen

It is now expected that Hurricane Allen will hit the vicinity of Brownsville, Texas around sunset tonight. It is an extremely severe storm with winds of 170 mph. Widespread devastation can be expected to result.

Federal preparatory measures are described in the attached memorandum. John Macy is flying to Texas this afternoon. Also, we are planning to issue a brief White House press release later today describing the preparatory measures that have been taken.

Governor Clements is likely to request a major disaster declaration late today or early tomorrow... We believe that it will be important to process this request as expeditiously as possible. FEMA personnel are on site and prepared to confirm the severity of damage as soon as the Governor makes his request. We have asked that this information, together with the Governor's request, be conveyed verbally to Lynn as soon as it is received. Then, with your approval, Lynn will contact you by telephone to request your approval of the request.

DECISION

Approve

Disapprove

THE WHITE HOUSE
WASHINGTON

P out 8/12/80

cc to Nell

803

cc: Moore

THE WHITE HOUSE
WASHINGTON

done
J
Aug. 11, 1980

Mr. President:

Sen. Russell Long called you late yesterday to ask you to contact the Justice Dept on his behalf concerning a desegregation case in Alexandria, La. Moore had alerted me the call was coming and Mr. Cutler was determining the facts in the case. Mr. Cutler called last night after he had talked with Judge Renfrew who is handling the case. Since 1970 there has been an attempt to desegregate a high school in Alexandria. In 1974 litigation began to move intergration to the 3rd grade level by this year. Sen. Long now wants that delayed by one year. Judge Renfrew said if Justice agrees he would go along. Sen. Long met with Drew last week but made no counter-proposal other than requesting a one year delay.

Moore and Cutler recommend you return Long's call and let him know that you understand he is talking directly with Justice and that this case is nothing you can interfere in.

Phil

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THE WHITE HOUSE
WASHINGTON

August 7, 1980

9
/

Mr. President:

You may have missed this article from the business section of Monday's New York Times. It reports that foreigners take favorable view of US economic policies and prospects. You might refer to these foreign views of your Administration's policies, and the resulting strengthening of the dollar, when you are discussing your record.

100
Henry Owen

Attachment

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Optimism On Dollar Growing

Rise Is Justified, Bankers Say, by U.S. Economy

By YOUSSEF M. IBRAHIM

Special to The New York Times

LONDON, Aug. 3 — The dollar, emerging from a lengthy depression, is staging a comeback that many economists and bankers say is well justified in view of the inherent strength of the American economy in comparison with those of other major industrialized countries.

During the last two weeks, the United States currency scored gains of about 2.5 percent against the West German mark, 3.2 percent against the Swiss franc and 3 percent against the Japanese yen. The feeling among a majority of bankers and economic observers is that the turnaround in the dollar's fortunes may well last for some time.

Among the reasons cited to justify optimism about the dollar's prospect is the prediction of several international banks that the United States will end this year with a surplus in its current accounts, that it has successfully reduced its oil imports and that the Federal Reserve will continue its tight control of the money supply.

"We felt all the way along that the underlying situation of the dollar was strong," Rimmer De Vries, chief economist of the Morgan Guaranty Trust Company, said in a telephone interview from New York. "It was at a discount, and this is basically being corrected right now because the United States is getting ready for an economic upturn next year."

Positive Signals Noted

Several British economists and bankers agreed with this assessment, citing indications that the battered American currency had weathered a great deal of strain surprisingly well and could only benefit from the positive signals that are beginning to show up.

There were some notes of caution, though. Some economists in London warned that it might be "too early" to be certain that the United States is indeed coming out of its recession. Others said that President Carter might be motivated to overheat the American economy in an attempt to regain popularity in the polls. However, the overwhelming opinion here about the shape of the American economy and the dollar in the months ahead is optimistic.

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The main catalyst in the present improvement of the dollar is the widespread conviction in the international money markets — shared by currency dealers and bankers here — that the decline in American interest rates has bottomed out.

The general expectation of foreign-exchange dealers who follow the dollar's ups and downs is that American interest rates will begin to rise. Rates

in West Germany and Japan are already showing signs of dropping because of recession and economic slowdown in these two countries.

Dealers say that these movements, many of them already evident, will cause institutions and investors to end their estrangement from the dollar and shift their funds from other currencies into dollar accounts where they can earn higher interest.

The anticipation of rising demand for the dollar, according to dealers here, appears to be a major contributor to the immediate enhancement of its value. "What we are seeing is a herd instinct," said one British dealer at a major bank in London. "At the moment there is a momentum among dealers who sold dollars for too long to buy them back and cover their positions."

Comparison With Pound

The interest rate differentials between dollars and other currencies are also beginning to change in favor of the dollar. According to the Chase Manhattan Bank here, the three-month Euro-dollar rate has risen to 10½ percent from the 9 percent that was in effect on June 20, while the Euromark rate has fallen to 8.5 percent from 9.4 percent on June 25.

"I don't think it is just the interest rate differential that is behind the improvement of the dollar," said David Morrison, currency economist for the London brokerage house of Phillips & Drew. "There is a feeling that the fundamental economic indicators are beginning to move in the dollar's favor for the first time in many years."

He argued that even though the interest rate differential between the American dollar and the British pound is very high in favor of the pound (16 percent for money deposited overnight for the pound, against 9.75 percent for the dollar) it has not prevented the dollar from gaining over the pound in the last few days.

"The explanation, of course, lies in the fact that the United States economy is cyclically ahead of the European economies," a Chase economist commented here. "It went into recession in March 1980 while European economies were still in good shape. Now it is coming out of recession while Europe and Japan are beginning their economic slowdown. This is bound to help the dollar."

THE WHITE HOUSE
WASHINGTON

8/11/80

President's out-box.

cc^{TO} John White attached.

Jim McIntyre notified
in NY via Marion.

-- Suzanne Brooke



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 7, 1980

*Jim -
I'd like to
avoid any
potential bad
news by some
follow-up action
if feasible -
J*

MEMORANDUM FOR THE PRESIDENT

FROM: JIM McINTYRE *Jim*

SUBJECT: Update on Selective Service Registration

As you know, we have maintained that the Selective Service System cannot issue a final and official count of actual registrants for at least 90 days after the registration period has ended.

However, due to the intense press speculation about participation rates, the Selective Service has decided to develop a preliminary, aggregate number as soon as possible. This number will be derived from the Post Office registration reports sent by mail to the Selective Service. While these reports were originally intended to serve only as an audit check on the forms sent to keypunch centers, they can be used to provide a preliminary count, well in advance of the 90 days needed for a final count.

Since many of these reports have not yet been received by the Selective Service, we cannot predict precisely when this count will be available, but we expect it to take two to three weeks.

This change in plans was announced to the press today by the Selective Service. We are keeping Jody informed of these developments, and will keep you aware of our progress.

cc: Jody Powell

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BROOKINGS

The Brookings Bulletin / Volume 16, Number 3 / Winter 1980

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Uniting against Inflation

Arthur M. Okun

RESTORING THE VITALITY and stability of the American economy is one of the great challenges of the new decade. It is a test of the intelligence, competence, and unity of the nation. Our ability to pass that test will determine the quality of life for our children and our nation's standing in world affairs.

To begin making progress, we must face up to our lack of progress in the seventies. The economic record of the past decade is the second worst of the century—inferior to all but the horrible 1930s. During this past decade, the dollar lost half of its purchasing power, and our productivity grew at less than half the rate established in previous decades. Our trade imbalances were the worst in our history as a result of our dependence on foreign oil. Our growth was not only slow but erratic, with recurrent setbacks from recession. And our disappointments intensify even to the present day: double digit inflation, actual declines in productivity, and a falling level of real after-tax income are the story of 1979.

The frustrations of the American people represent no failure of the spirit but rather a recognition of grim reality. Of course Americans are dissatisfied with the performance of the economy and with the management of economic policy. If they were satisfied, it would represent a worrisome flight from reality. Their dissatisfaction is the basis for action to improve our record.

We can do better and we have done better throughout most of our history. The strong performance of our economy has been our greatest social program, creating opportunities for the disadvantaged to climb the ladders of success, for the immigrants to educate their children, for the middle class to gain the security of home ownership and pensions, for the government to obtain the funds for fruitful initiatives ranging from human compassion to national defense.

But when the economy goes wrong, nothing goes right. Its malfunctioning robs us of our self-confidence.

It creates distrust. People feel squeezed and cheated and hunt for the villains and oppressors. So when we most need productive partnerships to solve our problems, we are confronted with disunity. The consumer and the producer both feel squeezed, and understandably but wrongly blame each other. The purveyors of single issue politics drown out the public interest. And the disunity extends into the government. A President and a Congress with a heavy majority from the President's own party show unusual frictions that impede legislation. Cabinet officers and senior members of the White House staff blame each other for their difficulties.

The people get no reasonable explanation of the nature of their problems. As many Americans thought as they stood in gas lines last summer, "I could take it a lot better if I understood why we have a gasoline shortage." But the facts and figures were not available and in their absence suspicion and cynicism abounded.

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THE WHITE HOUSE
WASHINGTON

cc's to Lloyd
Cutler's office.

cc Michael Cardoza
(picked up)

out 8/11

THE WHITE HOUSE
WASHINGTON

8/11/80

Lloyd Cutler
cc to Michael Cardoza

(President's out-box)

-- Suzanne Brooke

THE WHITE HOUSE

WASHINGTON

August 8, 1980

MEMORANDUM FOR THE PRESIDENT

FROM: LLOYD N. CUTLER

LMC

SUBJECT: Judicial Appointments

The attached story about an American Bar resolution is worth using the next time you talk about judicial appointments.

It squarely condemns the Republican platform provision about the political and ideological beliefs of judicial nominees.

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cc: Jack Watson
Hamilton Jordan
Gordon Stewart
Rick Hertzberg

attachment: The New York Times article
August 8, 1980

A20

Bar Panel Opposes G.O.P.'s Plank For Judges Who Support Abortion

By LINDA GREENHOUSE

Special to The New York Times

HONOLULU, Aug. 7 — The American Bar Association yesterday sharply criticized the Republican Party's platform provision on the selection of judges, officially calling on Ronald Reagan, the Republican Presidential nominee, to disavow the platform's requirement that only persons who oppose abortion be considered for judgeships.

Concluding the bar association's annual convention here, the policy-making House of Delegates voted overwhelmingly to put the organization on record as opposed to the selection of judges "on the basis of particular political or ideological philosophies that may or may not be held" by the judicial candidates.

The Republican platform calls for the "appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life." In the context of the abortion debate, that language signifies opposition to abortion.

The resolution adopted here declared that the association "reaffirms its commitment to the appointment to the judiciary of judges qualified on the basis of merit and renounces any appointment process repugnant to that concept."

Standards Called 'Improper'

Jerome E. Bogutz of the Philadelphia Bar Association, which sponsored the resolution, told the delegates that the Republican platform "runs counter to any sound commitment to merit selection and imposes improper and arbitrary standards on the judicial selection process."

"Imposing ideological or political standards on the selection process," Mr. Bogutz continued, "is contrary to everything that the organized bar has done to build and strengthen a qualified, free and independent judiciary."

Both Leonard S. Janofsky, the bar association's outgoing president, and William Reece Smith Jr., who assumed the presidency last night, expressed the same views separately this week.

None of the 380 delegates spoke against the resolution, and it carried on a voice vote.

A separate resolution to bar political affiliation as a consideration in appointing United States District Court judges

triggered some debate but also passed on a voice vote.

The measure was sponsored by the association's Committee on Judicial Selection, Tenure and Compensation, which said in an accompanying report that "all but a very few" of the 264 judges named by President Carter had been Democrats. The resolution calls on the President to revise his merit selection procedures to "provide that political affiliation shall not be a consideration in evaluating proposed nominees for appointment as district court judges."

Albert E. Jenner Jr., a former member of the bar association committee that reviews judicial nominations, argued, "It is just out of human reason to think the President would give no consideration to political affiliation." He urged an amendment to bar politics as a "controlling" consideration but to permit party membership to be given some lesser weight.

But Herbert Anderson, speaking for the sponsoring committee, said: "The question should be 'is it right?' or 'is it proper?' and not whether it is politically realistic."

Curb on Homosexuals

An effort to put the association on record in support of pending legislation to end discrimination against homosexuals who want to visit or move to the United States failed after one delegate, Joe Stamper of Oklahoma, delivered a fiery speech in which he said that "homosexuality is destructive of the family and harmful to our nation."

"Moral principals are immutable," Mr. Stamper said. "Moses brought them down to our civilization graven in stone."

The proposed amendments to the McCarran-Walter Immigration and Nationality Act are supported by the Department of Justice. The defeated resolution was introduced by the bar association's Section of Individual Rights and Responsibilities.

Another of that section's proposals was more successful. The delegates voted to urge Congress to bar discrimination on the basis of sex in places of public accommodations such as hotels and restaurants. The Civil Rights Act of 1964 now bars discrimination in such facilities on the basis of race and religion but does not mention sex.

THE WHITE HOUSE
WASHINGTON

August 8, 1980

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MEMORANDUM FOR THE PRESIDENT

FROM : JACK WATSON *Jack*
AL MCDONALD *Al*

SUBJECT: Senior Staff in White House during Convention Week

In line with your instruction that a top person should be in the White House at all times, here are the ones who will be available here next week.

Monday: Charles Schultze, Bo Cutter, Ray Jenkins
Tuesday: John White, Ray Jenkins
Wednesday: John White, Charles Schultze, Rex Granum
Thursday: John White, Charles Schultze, Rex Granum
Friday: John White, Charles Schultze, Lloyd Cutler,
Rex Granum

In addition, Zbig Brzezinski will be in the White House through Wednesday and will be in New York with you on Thursday and Friday. Henry Owen will be in the White House all week in constant communication with Zbig when he is in New York.

John White will act as the senior point of continuity for the week. Al will be coordinating regular business in New York each morning with the other Senior Staffers, Cabinet members and others after the report from the White House deputy group. Should John White need assistance at any time, we will reinforce him as appropriate.

THE WHITE HOUSE
WASHINGTON

8/11/80

Jack Watson
Arnie Miller

President's out-box.

cc to Jack Watson }
Arnie Miller }

8/11/80

-- Suzanne Brooke

THE WHITE HOUSE

WASHINGTON

August 6, 1980

①

MEMORANDUM FOR THE PRESIDENT

FROM:

JACK WATSON
ARNIE MILLER

Jack
AA

SUBJECT:

National Council on Educational Research

The National Council on Education Research is the policy making body for the National Institute for Education. There is currently a vacancy on the Council, and Mike Timpane, Director of National Institute of Education, has requested that a representative of state school officials be appointed. With Timpane's and Stu Eizenstat's approval, we make the following suggestion.

Alice C. McDonald (Kentucky) Deputy Superintendent of Education for Kentucky. She is a member of the President's Advisory Committee on Women and a Democratic National Committee member. She recently chaired the Human Resources Subcommittee of the Democratic Platform Committee. She is highly recommended by Senator Huddleston, Congressman Perkins, Governor Brown, Mayor Sloane and the National Education Association.

RECOMMENDATION:

Nominate Alice C. McDonald as a member of the National Council on Education Research.

approve

disapprove

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RESUME: ALICE C. McDONALD

Residence: 6501 Gunpowder Lane
Prospect, Kentucky 40059
(502) 228-8242

Office: City Hall
601 West Jefferson Street
Louisville, Kentucky 40202
(502) 587-3061
(502) 587-3042

Birthdate: September 26, 1940

Married: Judge Glenn McDonald, J.D.
one child, Michel, age 11

EDUCATION:

Post Graduate Course Work and Seminars:
Indiana University, Bloomington, Indiana
Tulane University, New Orleans, Louisiana
Louisiana State University, Baton Rouge, Louisiana

Catherine Spalding College, South Fourth Street,
Louisville, Kentucky.
Rank I, School Administration, 1975

Loyola University of New Orleans, St. Charles Avenue,
New Orleans, Louisiana.
M.Ed., Guidance and Counseling, 1966

Loyola University of New Orleans, St. Charles Avenue,
New Orleans, Louisiana.
B.S., Education, 1962
Member, Cardinal Key Honor Society
Member, Kappa Delta Pi Honor Society

WORK EXPERIENCE:

Current (September, 1978 - present)
Executive Assistant to the Mayor, Office of the Mayor, City
Hall, 601 West Jefferson Street, Louisville, Kentucky.
Responsibilities include serving as the Chief Executive to
the Mayor and acting as Deputy Mayor in the Mayor's ab-
sence. Responsible for administering the operations of
all City departments and all related agencies. The City
of Louisville has an annual operating budget of \$64,758,970
for FY 1979-80, and employs approximately 4788 persons.

ALICE C. McDONALD
(continued)

February, 1978 - September, 1978

Director, Neighborhood Development Office, Office of the Mayor, City Hall, 601 West Jefferson Street, Louisville, Kentucky.

Responsibilities included the supervision of a staff of neighborhood representatives and related support personnel; acting as liaison between the Mayor and community organizations; representing the Mayor on planning boards; and writing and administering programs and grants for neighborhood associations.

July, 1977 - February, 1978

Educational Advisor to Jefferson County Government, County Court House, Fifth Street, Louisville, Kentucky.

Responsibilities included serving as supervisor of educational programs; acting as liaison between Jefferson County Government and education related agencies; assisting in applying for, receiving and administering federal grants and programs for Jefferson County Government; supervising and directing programs for introduction to the state legislature; acting in the capacity of consultant to community agencies regarding educational programs; and working with all media regarding overall educational programs.

January, 1976 - June, 1977

Instructional Coordinator, Jefferson County, Kentucky. Public School System, 3000 Dundee Road, Louisville, Kentucky.

Responsibilities included directing school instructional programs, organizing teacher in-service activities, and developing new school programs. Among the programs developed were an entire reorganization of orientation for substitute teachers, and an intensive training program for teachers who were attempting to improve their teaching techniques, communication ability, and human relations skills.

September, 1967 - December, 1975

Guidance Counselor, J. M. Atherton High School, 3000 Dundee Road, Louisville, Kentucky.

Responsibilities included varied duties. The nature of the work included counseling, administering discipline, writing programs, and operating as an administrative assistant.

September, 1966 - June, 1967

Guidance Counselor, St. Bernard Public School, Chalmette Circle, Chalmette, Louisiana.

ALICE C. McDONALD
(continued)

Responsibilities included all those regularly assigned a guidance counselor. In the absence of an assistant principal, all duties regularly assigned to the assistant principal were assigned to the guidance counselor.

September, 1962 - June, 1966

Teacher, St. Bernard Public School, Chalmette Circle, Chalmette, Louisiana.

Responsibilities included regular teaching duties in a junior high school in the area of social studies. Extra-curricular duties included serving as sponsor of the Student Council.

CURRENT ACTIVITIES:

Board member, President's Advisory Commission on Women
Democratic - National Committeewoman from Kentucky
Member, Executive Committee, Democratic National Committee
Member, Executive Committee, Kentucky Democratic State
Central Committee
Member, Compliance Review Commission - 1980 Convention,
Democratic National Committee
Board member, Executive Committee member, Louisville Fund
for the Arts
Board member, Executive Committee member, MaCauley Theatre
Board member, Executive Committee member, 4-C of Louisville
Board member, Kentucky Derby Festival
Board member, International Year of the Child
Board member, Senior House of Louisville
Board member, Heritage Corporation

Memberships:

American Psychological and Guidance Association
National Education Association
Kentucky Woman's Political Caucus
National Federation of Democratic Women
American Society for Public Administration

PAST ACTIVITIES:

President, Democratic Woman's Club of Kentucky 1974-76
President, Kentucky Young Democrats 1972-73
Board member, Louisville - Jefferson County Parks and
Recreation Board 1976-77
Member, Louisville - Jefferson County Crime Commission 1971-73
Member, Site Selection Committee - Mini Convention, Democratic
National Committee 1978

ALICE C. McDONALD
(continued)

Member, Program and Agenda Committee - Mini Convention,
Democratic National Committee 1978
Executive Committee State Democratic Campaign 1977
Board member, National College Entrance Examination Board 1975-77
Co-Chairperson Kentucky Carter - Mondale Campaign 1976
Member, Democratic National Convention Platform Committee 1976
Delegate, Democratic Convention 1976
Member, International Woman's Year Advisory Committee 1975-76
Co-Chairperson of Kentucky Democrats United 1975
Delegate, Democratic Convention 1972

8/14/80 2:10 pm

Mr. President --

Phil-
Schedule this
for Fri am
J

Dr. Brzezinski says his best guess is that Schmidt is calling to congratulate you and Zbig suggests you accept his call or make arrangements to have such a call be accepted. That it probably would be best to do so tomorrow morning. Zbig feels this should be disclosed to the press, since Schmidt is known to have taken issue with you on matters from time to time. In this context, if you accepted a phone call tomorrow morning, it would take into account the 5 hour time difference, be after your acceptance speech and therefore would be more "newsworthy" for the next day's papers.

If you agree, Phil Wise or I could call Mr. Bruns back and suggest such time for the call from Chancellor Schmidt.

And Phil Wise can do whatever is necessary from scheduling standpoint.

Thanks -- Susan Clough

cc: Phil Wise

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for Preservation Purposes**

*ms. Make sure its for
Schmidt to call the boss*

8/14/80 1:28pm

ssc - tc with Mr. Bruns. head of Chancellor Schmidt's office

Chancellor Schmidt would like to know if it would be possible to get a line through to the President -- today or tomorrow.

1:30 pm
7:30 am
Bruns calling from Bonn. The Chancellor is on holiday at his private home in Hamburg -- and does not have any help, or anyone with him.

10:10
4:10
When have possibilities for making call, Mr. Bruns would need very much to try to arrange its timing, and therefore would like to be called regarding suggested times. He will then make arrangements at Schmidt's private home, since no one is there now.

Would be better up to 2½ hours from now today.... or tomorrow, taking into consideration the time difference.

Bruns private number: regional code 02202
local number 32948
(will be there 3/4 hour from 1:28pm EDT)

Chancellory -- regional 0228
local 561
(gets to the operator; but Mr. Bruns doesn't know if the operator speaks English)

ssc note: sounded "anxious", Schmidt must have called Bruns to arrange call just before he called me, which is 7:30 pm his time! (Don't know what came up, but must have been sudden!)

Also presume Bruns is in the same situation in Bonn as we are in New York/Washington. With it being evening, most of the people in Bonn are home; with the Chancellor on holiday, no one (or skeleton/non-foreign-policy support crew) is with him -- and neither Muskie, Brzezinski, or Denend, etc., are in their offices in Washington.

THE WHITE HOUSE
WASHINGTON

original handwriting
for staff secretary

out 8/15

THE WHITE HOUSE

WASHINGTON

August 12, 1980

Mr. President --

I discussed the contents of this memorandum with Stu before he went to New York last weekend and he approved it in principle.

--Lynn Daft

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THE WHITE HOUSE

· WASHINGTON

August 12, 1980

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT
LYNN DAFT 

SUBJECT: 1981 Wheat Program

Secretary Bergland is required by law to announce by August 15 if producers will be required to "set-aside" acreage to be eligible for 1981 program benefits. In the attached memorandum, the Secretary recommends that there be no wheat set-aside in 1981. Your other advisors agree that the supply and demand conditions do not warrant a wheat set-aside in 1981.

This memorandum reviews the supply/demand situation for wheat, both domestically and world wide; summarizes the key considerations in the decision to recommend against a set-aside in 1981; and seeks your approval of this recommendation.

Supply/Demand Situation

The supply/demand situation for wheat is about in balance this year, both domestically and for the world. While the U.S. produced a record wheat crop this year -- the increase in acreage more than offset a slightly lower yield -- our year-end stocks are expected to remain virtually unchanged. Elsewhere in the world, weather conditions have adversely affected production in some of the major grain producing countries. As a consequence, world wheat stocks are expected to increase only slightly this year despite a near record production of 443 million metric tons (mmt). World wheat use, now forecast at about 440 mmt, could set a record.

Projections for the 1981 crop year suggest that production and consumption around the world will be in approximate balance at about 450 mmt. Conditions in the U.S. are very similar to the world supply/demand situation. This year, our wheat stocks will total about 25 mmt, nearly the same as in 1979/80. Export sales and domestic use will about equal the record crop just harvested. We expect to end the year with about 12.3 mmt in farmer-owned reserves and/or CCC stocks, near the lower end of our reserve stock objectives.

We do not expect domestic wheat production or consumption to change materially next year. Harvested acreage will probably decline some as farmers make marginal shifts to more profitable crops - corn, soybeans, sunflowers, cotton, etc. Exports will depend importantly on weather conditions in other production areas of the world. If weather is good world-wide, U.S. exports will be lower than this year's record level and stocks will increase slightly, but still not be excessive. Poor weather elsewhere in the world could reduce our stocks below desired levels.

Decision Considerations

Your advisors considered the following factors in arriving at their decision:

- o Despite a record U.S. crop this year, world production and utilization will about balance. Furthermore, there continues to be a great deal of uncertainty over production levels in other parts of the world.
- o U.S. carryover stocks are forecast to be at the low end of our stock objectives at the end of the 1980 crop year.
- o This year's U.S. feed grain crop remains highly uncertain. The August 11 crop report forecasts a 16 percent reduction from last year's record level, partly due to the drought. Lower feed grain supplies (and higher prices) will result in some substitution of wheat for feed grains in animal feeding, both domestically and abroad.
- o Market prices will probably be sufficiently high to discourage participation in a set-aside. Those not participating (USDA estimates more than 50 percent) would be ineligible for farm program benefits, including access to the recently increased CCC loans, target price protection, and entry into the farmer-owned reserve.
- o A decision to not have a set-aside leaves open the opportunity to offer a paid diversion program later in the year if conditions should warrant. Budget costs associated with a paid diversion are greater than with a set-aside but there is no statutory constraint regarding the date of announcement of such a program. Furthermore, a diversion program would be completely voluntary; producers choosing not to divert would continue to be eligible for other farm program benefits.

- o Politically, a decision to not have a set-aside will be unpopular with farmers. As Secretary Bergland notes, farm organizations have strongly favored use of a set-aside or a combination set-aside/paid diversion. Although recent strength in market prices and your decision to raise loan rates and the reserve trigger levels will take some of the edge off their criticism, they will still be unhappy.
- o A decision against having a set-aside is clearly more easily explained to the general public. It would not make sense to most people for the government to be diverting acreage from production when we are in the midst of a drought in parts of the nation, some African nations are experiencing serious food shortages, and we are approaching a period of somewhat higher food prices.
- o Finally, although it is not widely understood, decisions regarding the pricing provisions of these programs are far more important to the economic welfare of farmers than the decision over whether to divert acreage.

The Administration's record in this regard speaks for itself. Since 1976, the loan rate for wheat has been increased 30 percent and the target price 25 percent. You have announced support for legislation authorizing higher loans for grain entering the reserve. And, perhaps most important of all, reserve release and call levels have been adjusted each year to reflect changes in producer costs. We anticipate making such adjustments again for the 1981 crop.

Conclusion

In the view of your advisors, these considerations argue rather strongly against a set-aside in 1981. However, the way in which we explain this decision to farmers is going to be very important. Farm organizations, some Members of Congress, and Governors from some farm states have all expressed a preference for a set-aside or a diversion or both. In this regard, Secretary Bergland recommends and your other advisors concur that we emphasize that the need for a paid diversion program will continue to be assessed and be offered later if conditions materially change. While we consider it unlikely that conditions will change enough to warrant a diversion program, offering this assurance will help ease farmer criticism. With regard to the pricing provisions, the Secretary will indicate that they will be announced later but will not be lower than those now in effect. The only possible exception to this is the target price. The Secretary might choose to announce it since an adjustment reflecting changes in the cost of production is required by law.

Agency Views

Your advisors are in agreement that there should be no set-aside, that decisions regarding the pricing provisions (with the possible exception of the target price) should be deferred until the 1980 crop situation is less uncertain, and that a paid diversion program be held in reserve. The one major note of caution comes from OMB. Although they concur that a set-aside is not justified, they are concerned that we not raise expectations and generate pressure for instituting a paid diversion program later in the year.

If you approve this action, we will withhold announcement until the markets close this Friday, August 15 and will work closely with USDA in drafting the statement they release.

DECISION

 Approve - No Wheat Set-Aside in 1981 (USDA, CEA, OMB, CWPS, OCA, Treasury, DPS)

 Disapprove



**Electrostatic Copy Made
for Preservation Purposes**



DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

WASHINGTON, D. C. 20250

August 8, 1980

MEMORANDUM FOR THE PRESIDENT

Subject: 1981 Wheat Program

In a few weeks, farmers will be planting the winter wheat that will begin to be harvested next May. Understandably, before planting they want to know the terms and conditions of the 1981 wheat program. The loan, target, special reserve loan, reserve release, reserve call and CCC sale prices are of major importance to their decision and so are the provisions with respect to acreage set aside, diverted or used to produce hay or grazing for cattle.

We should announce all these terms and conditions now, even though only the decision on a set-aside must be announced by August 15. But with the great uncertainty over world and domestic grain production prospects this year, it is difficult--if not impossible--to conclude whether wheat supplies are likely to be excessive at the end of the 1981/82 marketing year. At the same time, Congress has not completed action on the measure to authorize a higher loan price to those who place grain in reserve. Therefore, we are not able to decide upon the pricing provisions for the 1981 program and are not in a good position to make decisions on set-aside, diversion or haying and grazing programs.

Except for making the required set-aside decision, I recommend we postpone decisions on all 1981 program provisions. In that regard, I recommend that we announce there will be no set-aside in 1981. However, I also recommend that such a policy be qualified accordingly:

"A paid diversion program will be offered producers next spring if events between now and then lead us to believe that wheat supplies are likely to be excessive at the end of the 1981/82 marketing year.

The basic loan price for 1981 crop wheat will be at least \$3.00 a bushel, and, assuming the Congress completes action on an acceptable measure this session, the special loan price for 1981 crop wheat will be at least \$3.30 a bushel.

The 1981 crop target price will be increased from the \$3.63 in effect for the 1980 crop, taking into account increases in short-term costs of production.

The reserve release and call prices will be increased from the \$4.20 and \$5.25 for the 1980 crop taking into account changes in the total cost of producing wheat.

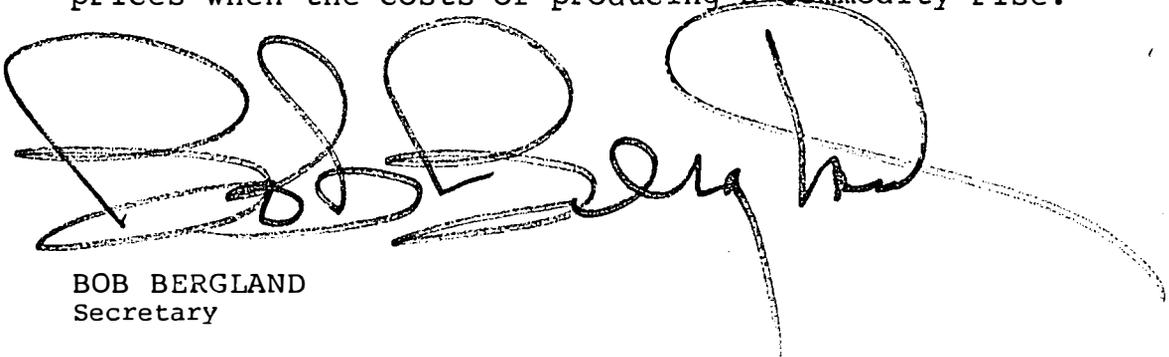
The CCC resale price will not be less than 105 percent of the reserve call price."

From today's vantage point, it appears that our wheat supplies at the end of both the 1980 and 1981 seasons will be adequate, but probably not excessive. Therefore, it is difficult to recommend a set-aside or diversion program even though those who responded to the invitation to comment were clearly in favor of such a program in 1981.

The invitation brought forward 225 comments--88.4 percent of which recommended a set-aside, paid land diversion or a combination of the two. Almost 50 recommended just a set-aside; 12 percent just a paid diversion; 27 percent a combination of the two.

Those multinational grain exporters commenting on the 1981 program joined the American Bakers Association and the Community Nutrition Institute in recommending no set-aside or diversion.

The recommendations we received from the public and trade groups were made before it became evident that our grain and oilseed crops would be hurt by the drought. Therefore, I believe if we accompany the announcement of no set-aside with the above policy statement the political controversy should be less intense. Yet, I believe it is of major importance to make certain that our statements with respect to pricing provisions fully reflect our policies, which require increases in target, reserve release and call prices when the costs of producing a commodity rise.



BOB BERGLAND
Secretary

Agree with above recommendations: _____

Disagree with above recommendations: _____

THE WHITE HOUSE
WASHINGTON

Date: 8/13/80

TO:

Supreme Brooke

FROM: LYNN DAFT

6560

For your information _____

SSC - will call?

Lynn

upon approval

Approved
to w/ SSC 8/15/80
10:15 a.m.

THE WHITE HOUSE
WASHINGTON

notified Lynn
Daft 10:20 a.m.

August 12, 1980

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THE WHITE HOUSE

· WASHINGTON

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LYNN DAFT 

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This memorandum reviews the supply/demand situation for wheat, both domestically and world wide; summarizes the key considerations in the decision to recommend against a set-aside in 1981; and seeks your approval of this recommendation.

Supply/Demand Situation

The supply/demand situation for wheat is about in balance this year, both domestically and for the world. While the U.S. produced a record wheat crop this year -- the increase in acreage more than offset a slightly lower yield -- our year-end stocks are expected to remain virtually unchanged. Elsewhere in the world, weather conditions have adversely affected production in some of the major grain producing countries. As a consequence, world wheat stocks are expected to increase only slightly this year despite a near record production of 443 million metric tons (mmt). World wheat use, now forecast at about 440 mmt, could set a record.

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We do not expect domestic wheat production or consumption to change materially next year. Harvested acreage will probably decline some as farmers make marginal shifts to more profitable crops - corn, soybeans, sunflowers, cotton, etc. Exports will depend importantly on weather conditions in other production areas of the world. If weather is good world-wide, U.S. exports will be lower than this year's record level and stocks will increase slightly, but still not be excessive. Poor weather elsewhere in the world could reduce our stocks below desired levels.

Decision Considerations

Your advisors considered the following factors in arriving at their decision:

- o Despite a record U.S. crop this year, world production and utilization will about balance. Furthermore, there continues to be a great deal of uncertainty over production levels in other parts of the world.
- o U.S. carryover stocks are forecast to be at the low end of our stock objectives at the end of the 1980 crop year.
- o This year's U.S. feed grain crop remains highly uncertain. The August 11 crop report forecasts a 16 percent reduction from last year's record level, partly due to the drought. Lower feed grain supplies (and higher prices) will result in some substitution of wheat for feed grains in animal feeding, both domestically and abroad.
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If you approve this action, we will withhold announcement until the markets close this Friday, August 15 and will work closely with USDA in drafting the statement they release.

DECISION

_____ Approve - No Wheat Set-Aside in 1981 (USDA,
CEA, OMB, CWPS, OCA, Treasury, DPS)

_____ Disapprove



DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

WASHINGTON, D. C. 20250

August 8, 1980

MEMORANDUM FOR THE PRESIDENT

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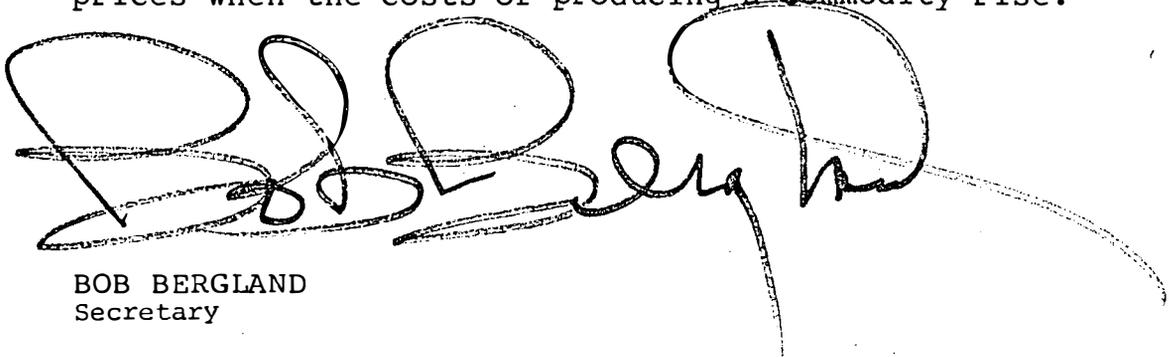
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BOB BERGLAND
Secretary

Agree with above recommendations: _____

Disagree with above recommendations: _____

THE WHITE HOUSE
WASHINGTON

August 12, 1980

Approved

in

N.Y.

J

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FROM: STU EIZENSTAT
LYNN DAFT
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DECISION

_____ Approve - No Wheat Set-Aside in 1981 (USDA, CEA, OMB, CWPS, OCA, Treasury, DPS)

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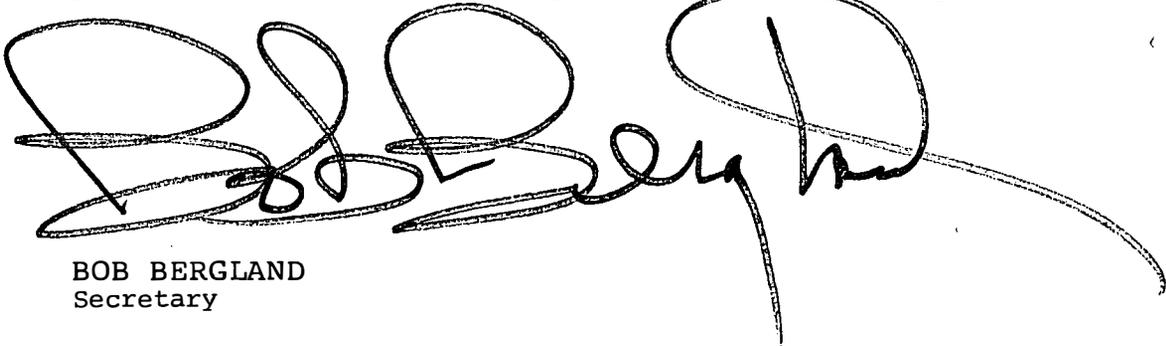
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BOB BERGLAND
Secretary

Agree with above recommendations: _____

Disagree with above recommendations: _____

THE WHITE HOUSE
WASHINGTON

out
8/11

cc for Stu
~~attached~~

- SB

Oren Kramer
picked up cc

THE WHITE HOUSE
WASHINGTON

8/11/80

Stu Eizenstat
Orin Kramer

President's out-box.
comments to Stu in NY
via Marion.

mm cc ^{to} Orin Kramer attached.

-- Suzanne Brooke

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THE WHITE HOUSE
WASHINGTON

08 Aug 80

Mr. President:

Frank Moore concurs. Jack
Watson and Lloyd Cutler
have no comment.

Rick/Marion

THE WHITE HOUSE

WASHINGTON

August 8, 1980

SK
J

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu* ORIN KRAMER

SUBJECT: McFadden Act Report : Executive Summary

Under the International Banking Act of 1978, you are required to submit a report to the Congress evaluating the current statutory framework governing geographic expansion by commercial banks. That framework has two components: the 1927 McFadden Act, which prohibits branching on an interstate basis and restricts it to the limits set by state laws on an intrastate basis, and the Douglas Amendment to the 1956 Bank Holding Company Act, which effectively prohibits interstate acquisitions by bank holding companies.

The Administration convened an interagency task force composed of DPS, OMB, CEA, Treasury, Justice and the financial regulatory agencies to conduct this study. In essence, the task force concluded that existing geographic restraints have been substantially eroded by market forces and regulatory actions, that banking is now an interstate business, and that the existing framework is anti-competitive and should be liberalized. Most task force members were initially inclined toward virtually total deregulation, which would have been anathema to most of the Congress and all but the nation's largest banks. The task force has agreed to soften its recommendations and now unanimously supports limited deregulation: the Administration would endorse a phased liberalization of the Douglas Amendment to permit acquisitions of banks on an interstate basis, but we would not recommend changes in the laws affecting branching. The agencies have also acquiesced in our view that we should not submit a specific legislative proposal and should discourage any Congressional activity in this area this year. For reasons detailed in the attached memorandum, it is clear that the interstate acquisition route would achieve the benefits of a more competitive system but would generate far less controversy than Federal preemption of state branching laws. The two major banking trade associations will react favorably to the approach the task force has suggested, and the Banking Committee leadership will defer judgment until the Committees address the issue next year.

For reasons outlined in the attached memorandum, the agencies believe it is important to submit our report to Congress during the week of August 18; to meet this schedule we must finalize the study during Convention week. We had submitted the attached decision memorandum yesterday evening for your review. However, in view of the unanimity of your advisers, the fact that this is not a 1980 legislative issue, and the demands on your schedule today, Jack recommends that we give you this short summary and proceed to prepare the report on the basis of your advisers' recommendations. The attached memorandum is for your background, but you need not read it at this time.

THE WHITE HOUSE

WASHINGTON

August 8, 1980

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
ORIN KRAMER

SUBJECT: McFadden Act Report

Under the International Banking Act of 1978, you are required to submit a report to the Congress evaluating the current statutory framework governing geographic expansion by banks. A task force composed of Treasury, Justice and the financial regulatory agencies has submitted for our review a draft report recommending significant deregulation. We recommend a softening of the draft task force recommendations; CEA, OMB, Treasury, Justice and the regulators concur in the modifications suggested below. This memorandum describes the findings and original recommendations of the task force, our suggested changes, and the political issues involved.

I. Existing Statutory Framework

The existing statutory framework prohibits full-service banking on an interstate basis, and restricts intrastate expansion by commercial banks in each state to the limits set by state laws. This restrictive framework has two components: the McFadden Act and the Douglas Amendment to the 1956 Bank Holding Company Act. The 1927 McFadden Act, as amended in 1933, prohibits national banks from opening full-service branches on an interstate basis, and authorizes intrastate branching only as is permitted for state-chartered institutions by the state in which the bank is headquartered. The Douglas Amendment effectively prohibits domestic bank holding companies (BHC's) from chartering or acquiring banks on an interstate basis.

McFadden and Douglas codify two principles which are now sacrosanct for many small banks and state regulators: first, that each state should determine its multi-office banking structure, if any; and second, that neither BHC's nor banks should operate full-service offices in more than one state. Although these principles are not universally popular, their support reflects both competitive and philosophical concerns.

On one level, McFadden has produced a patchwork of state limits on geographic expansion, ranging from single office (unit banking) states to those permitting statewide branching. This framework has provided a protective umbrella--albeit a perforated one--for many banking institutions; it is largely responsible for the fact that the United States has nearly 15,000 banks, compared to approximately 700 in Canada, Great Britain, France and Germany combined.

On another level, since the eighteenth century this nation has had a "dual" banking system, whereby institutions have had the choice of either the Federal or state government as primary regulator. While there is disagreement over the usefulness of the dual banking system, its supporters believe that it has enhanced financial innovation, and many believe that its preservation requires continued state control over branching. More fundamentally, the concern over states' rights reflects historic fears about the economic power inherent in banking and a commitment to avoid undue concentrations of financial power.

Recent changes in the regulatory structure and in the nature of the financial markets have fundamentally altered the economics of the banking business and changed the outlook for the preservation of existing geographic restraints. There has been a quantum leap in both the number and competitiveness of participants in the "banking" business. The new competitive forces, which are described below, have shifted the attitudes of significant segments of the banking industry toward McFadden and Douglas. Many private analysts share the view that, after Regulation Q, the existing statutory framework is the central financial deregulation issue of the 1980's, and some degree of deregulation is inevitable.

The Administration's study accompanies the first serious debate on the existing statutory structure within the industry, and the Administration's findings are expected to serve as the primary vehicle in that debate. The Association of Bank Holding Companies, which represents approximately 140 institutions holding 55% of all domestic bank deposits, passed a resolution this summer recommending the liberalization of Douglas to permit interstate acquisitions in contiguous states. The American Bankers Association, which represents 90% of the industry, has convened a special meeting for early September to begin developing a position on geographic restraints. The ABA's leadership will seek association support for some form of liberalization. Historically, non-banking constituencies have not displayed significant interest in this issue.

Despite this new momentum, a legislative debate at this stage would generate bitter controversy. All agencies have acquiesced in our view that we should not submit a specific legislative proposal at this time and should discourage any Congressional activity in this area this year.

The remainder of this memorandum is divided into two sections. The first describes the task force findings regarding the impact of geographic restraints in today's environment. The second describes the original task force recommendations and our recommended changes, which we believe are necessary to avert a severe negative reaction from the Congress and all but the nation's largest banks.

II. Task Force Findings

The task force concluded that regulatory actions and market forces are increasingly eroding the effectiveness of existing geographic restraints.

The financial services business that emerged from the 1930's and evolved slowly for three decades consisted of distinctly different classes of financial institutions, operating in separate geographic areas and offering different products and services. Since the mid-1960's, regulatory, financial, demographic and technological changes have undermined the boundary lines drawn in the 1930's and blurred the differences between traditionally distinct institutions. Two trends have emerged: the range of institutions in the "banking" business has broadened, and the markets served by those institutions have expanded beyond McFadden limits. Financial institutions of all types are increasingly competing in the same marketplace, offering similar financial products. These changes in market structure are outlined below.

First, except for retail deposit taking, commercial banks have been able to develop an interstate banking presence without violating McFadden or Douglas. Under 1970 legislation BHC's may acquire a range of "non-banking" affiliates on an interstate basis; this provision has facilitated nationwide networks of consumer finance, mortgage banking and other "nonbank" institutions controlled by BHC's. Edge Act corporations chartered by banks on a nationwide basis offer services for transactions related to international trade, and their powers were recently broadened. In short, the regulatory structure has evolved to permit the largest banks to compete nationwide for "wholesale" business; it is the retail customer and the smaller banks whose primary business is serving that customer which remain insulated from interstate banking competition.

Second, McFadden and Douglas restrict competition among banks but do nothing to insulate banks from thrift institutions, which have increasingly become direct competitors for retail banking business. Under the Regulation Q phaseout bill, the products thrifts provide will increasingly be similar to those traditionally offered exclusively by banks, but geographic expansion for thrifts is not limited by Federal law.

Perhaps the greatest change in the structure of the financial services industry has been the recent and accelerating penetration of the "banking" business by nondepository institutions. Brokerage firms, finance, mortgage, insurance and credit card companies offer an increasing range of bank-like services on a regional and nationwide basis. For example, money market mutual funds, which compete with banks for "deposits," offer minimum denominations as low as \$500, and most offer checking services. Merrill Lynch's fund began in 1975 and has accumulated over \$10 billion in just five years; if it were a commercial bank, it would already be the nation's 16th largest. Indeed Merrill Lynch has identified 37 individual and

corporate financial "needs," and it is expanding to meet all these needs on a nationwide basis. Brokerage houses, telephone companies and other expected competitors in the new "banking" business are not subject to geographic restraints, and the impact of this inequity will become more significant over the next decade.

The major finding of the task force is that totally apart from the competitive impact upon banks, some liberalization of the existing framework at this time would serve the public interest. The reasons for this conclusion, which has been shared by several prior Presidential commissions, are described below.

First, the task force concluded that to the degree that existing geographic restraints remain effective today, they represent artificial barriers which impede the efficient allocation of resources, inhibit bank productivity, reduce competitiveness and limit the availability of services in many markets. Federal banking policy should promote a stable and competitive financial system which serves the consumer effectively and efficiently, and permits bank customers to choose financial relationships based on their evaluation of the variety, price and quality of services offered by competing institutions. Consumer freedom of choice should be constrained by government only to the extent that competing public policy objectives manifestly require it. A legal framework which restricts natural competition is inconsistent with the objectives of banking policy and is anachronistic in today's competitive, creative and sophisticated worldwide marketplace for financial services.

Second, given that geographic restraints are anti-competitive, the issue is whether the remaining positive feature of these restraints--i.e., avoiding undue concentration--can be achieved without artificial geographic barriers. When McFadden and Douglas were enacted, there was some question whether banking was subject to the antitrust provisions of the Sherman and Clayton Acts. These issues were resolved by court decisions and legislation in the 1960's making clear that bank expansion through acquisition was subject to all the antitrust laws and, in addition, to antitrust criteria which would be applied in the first instance by the bank regulators. These antitrust constraints can deal directly with the geography relevant to competition in individual cases, and thus potentially are a far more sophisticated means of avoiding undue concentration than are state barriers. The Justice Department has historically opposed geographic constraints on the ground that they undermine antitrust policy by limiting new entrants to a market.

Third, McFadden is a major barrier to a technological revolution which could alter banking practices and facilitate more convenient consumer services. McFadden was drafted to limit the expansion of brick-and-mortar manned offices, but its restrictions apply to any "device" which "effects" a banking transaction. New communications technologies permit a wide range of banking services to be provided at locations remote from bank offices and without the presence of bank personnel. But the cost savings, increased productivity and added convenience which new technologies can offer cannot be fully realized as long as McFadden applies to electronic facilities.

Fourth, in addition to the competitive inequities vis-a-vis thrifts and nondepository institutions cited above, domestic banks suffer disadvantages in competing with foreign banks in the United States. Foreign bank holdings in the United States have quadrupled in the past five years, to the point where foreign banks today make nearly 20% of all business loans in this country. The most visible and increasingly controversial issue, which is perceived as creating a competitive advantage for foreign banks, is that a foreign bank may purchase a United States bank, but under Douglas an out-of-state domestic bank may not make a competing offer. Last spring the Congress enacted a three-month moratorium on foreign bank acquisitions to permit the regulators to review this issue. The Administration and the regulators have opposed prohibiting foreign acquisitions. But we are under growing pressure from expansion-oriented domestic banks either to close the door to the foreign banks or, preferably, to provide parity for our own institutions.

Fifth, small banks can survive in competition with money center institutions. Twenty-two states permit statewide branching: of the more than 2000 banks in these states, over half have assets of less than \$25 million. In the early 1970's, New York State authorized unlimited statewide branching, and the financial reverses suffered by the New York City banks in unsuccessfully trying to penetrate the upstate markets testify to the staying power of efficient small banks with a hold on local loyalties.

Geographic restraints have contributed to important adverse financial trends in the commercial banking industry. The commercial bank share of the financial services industry has declined from 59% after World War II to 37% in 1979, and the failure to reduce competitive inequities is likely to produce a continuation of this trend. This has been accompanied by a decline in the worldwide position of major United States banks. In 1972, four out of the ten, and 17 out of the 50 largest banks in the world were United States banks; today the figures are two out of ten, and six out of 50. As consumers seek increasingly sophisticated bank services, a domestic banking industry not structured to provide those services will suffer a continued relative decline. That decline might not be objectionable per se if it reflected the inability of banks to provide services and offer prices comparable to those of non-bank competitors. But it is inequitable and inefficient for government to force a decline in this critical industry through the retention of antiquated restraints.

III. Recommendations

In view of the important public policy concerns described above, we recommend that the Administration take the intellectually responsible position favored by past Presidential commissions that some degree of deregulation is warranted. Politically, however, it is important and feasible to do so in a way that avoids the level of fallout the original task force recommendations would create. Based on conversations with Congressional staff and hundreds of bankers, it is clear that the draft report would represent nirvana to a relatively small member of large institutions, primarily in New York City, but would be anathema to the preponderance of the

industry and hold no realistic prospect for a favorable Congressional reaction over the short term.

The approach suggested below would meet several objectives. First, it would promote our goal of permitting increased competition while preserving the states' existing authority to determine their respective statewide banking structures and avoiding the immediate threat of interstate branching (as opposed to interstate acquisitions), which is the greatest fear of small banks and state bank supervisors. Second, it would somewhat reduce the attractiveness of the report to the money center banks but provide a base of support among a wide range of regional institutions in Cleveland, Philadelphia, Houston, Charlottesville, Atlanta, etc. Finally, it effectively addresses the foreign acquisition "inequity" issue. The options and recommendations are described below.

A. Should the Administration endorse "nationwide" banking?

The original draft recommends "the eventual achievement of nationwide banking." We regard this recommendation as substantively correct but inflammatory; all but a relative handful of institutions would oppose any report making it explicit that Citibank and Bank of America could enter their territories on a full-service basis. The resolution by the Association of Bank Holding Companies favoring acquisitions on a contiguous state basis reflects the fact that the regional banks want broader authority to bank within their regions, but not at the cost of penetration by the New York banks. The smaller banks opposed to any liberalization are also most concerned about market entry by the very largest money center banks.

Recommendation:

The Administration should endorse a "significant liberalization of geographic restraints on a phased basis" and should remain silent on whether the liberalization process should go as far as nationwide banking. Relaxation of geographic restraints should be accomplished in stages to avoid short-term instability and allow for smaller institutions to establish a strong competitive position.

B. Should the Administration indicate a preference for the liberalization of Douglas as opposed to McFadden, and should we make any specific recommendations?

The draft report suggests specific recommendations for liberalizing both Douglas and McFadden, including statewide branching and SMSA branching authority for national banks "over the longer run."

We believe it is neither necessary nor appropriate to make specific recommendations with respect to either Douglas or McFadden. The constituency favoring liberalization splinters over any specific formulation as to how that liberalization should be achieved; we can meet our responsibility by providing a candid description of the forces pushing toward liberalization and a general indication of the direction that deregulation should take. Specificity would only be appropriate if we were contemplating Congressional action this year;

our objective is to meet our statutory mandate and provide a vehicle for discussion within the industry on an issue that the Congress will begin to address in 1981.

Second, there are strong reasons why an emphasis upon Douglas (the interstate acquisition route) rather than McFadden will generate less opposition without sacrificing the objective of a more competitive banking framework. There are powerful regulatory and political considerations favoring Douglas. The most important factor is that the modification of McFadden is perceived by small banks and state regulators as the greatest threat to the dual banking system. There is debate over whether state control over branching structure is truly integral to a viable dual banking system, but it is certainly perceived to be. If national banks received either statewide or interstate branching authority, the 28 states which presently limit or prohibit branching would have no alternative but to allow state banks the same privilege or see large numbers of conversions to national charters. Interstate branching would also create supervisory problems for state regulators. Regulators would have to cross state lines to examine the records of a branch's head office, but under existing law they have no authority to do so.

A liberalization of restraints on interstate acquisitions would avoid these problems. State branching structures would remain intact. Once an out-of-state BHC acquired a bank in a particular state, the bank would be subject to that state's branching laws. There would be no need for regulators to cross state lines to examine banks. Finally, there is precedent for multistate bank holding companies. Twelve BHC's grandfathered under the Bank Holding Company Act of 1956 continue to do business in more than one state, with no evidence of any problems.

On the merits, a decision to downplay McFadden is an imperfect solution, precisely because it would leave intact the anti-competitive structures of a number of states. The language suggested below would reflect our disenchantment with the effects of McFadden without an explicit commitment to seek its modification or repeal. In light of the virtually unanimous view that if and when the Congress liberalizes the existing framework, it will choose the Douglas route over the short term, we believe that the formulation described below reflects a realistic agenda for the next several years.

Recommendation:

The report would indicate that there are two ways to achieve a phased liberalization: through the modification of either McFadden or Douglas. As between the two, over the short term a modification of Douglas would have a less intrusive impact upon the existing regulatory structure and the dual banking system, which the Administration supports. The Administration would indicate in a general way restrictions which could be attached to a liberalization of Douglas to avoid domination by the money center banks and to assure gradual change. For example, Congress could consider initially restricting interstate acquisitions by imposing limits on the markets that might be entered--i.e., acquisitions might be limited to SMSA's or on a regional basis.

Congress might impose limits on the banks to be acquired--i.e., the purchased bank could not hold more than a specific percentage of local market share. We would recommend that the Congress consider the importance of assuring adequate safeguards against undue concentration and preserving the dual banking system in devising an appropriate approach.

Over the longer term, the Congress should consider what changes in McFadden might be appropriate in view of the findings of the report. We would note that significant improvements in bank competition and performance could be achieved in those areas where state laws significantly limit the number of competitors in local markets, and we would urge those states to consider liberalization of their statutes regarding intrastate branching.

C. Electronic Facilities and Failed Bank Legislation

Finally, we concur with the task force recommendation that the Administration reaffirm its existing support for legislation which would 1) make the deployment of electronic banking facilities subject to more liberal geographic restrictions than those imposed upon brick-and-mortar branches, and 2) give the bank regulators broader powers to deal with failing banks.

IV. Political Reactions and Timing Considerations

We have reviewed these recommendations with Congressional staff and the relevant industry groups, and their reactions to the package we have suggested are outlined below.

The Association of Bank Holding Companies will react extremely favorably to the report and, in particular, to its emphasis on Douglas. The American Bankers Association will defer judgment on the recommendations pending the completion of its own deliberations, but it will characterize the 300-page study as a thoughtful and constructive discussion of an issue which must be addressed. The Independent Bankers Association, which represents the 5000 smallest institutions, has traditionally opposed all financial reform legislation, including the Regulation Q phaseout bill, and will oppose liberalization in this area. However, they will indicate their approval of the Administration's decision not to seek changes in McFadden; the retention of McFadden is their highest priority. Congressional staff indicate that the Banking Committee chairmen will take no position until the Congress reviews the issue next year. The New York Times urged a liberalization of Douglas in a lead editorial recently, and favorable reactions from the national and financial press are expected, although any reaction from the rural press is likely to be negative.

The submission of this report, which was due in September, 1979, has been deferred several times at the request of the Banking Committee leadership and the regulators. The reasons which warranted those delays--consideration of the Regulation Q bill this winter and spring, and the regulators' failing bank bill earlier

this summer--no longer exist. We have not been criticized for delay thus far, but the failure to produce the report will be something of an issue if it is not submitted promptly. GAO will issue a report shortly concluding that the recently expired moratorium on foreign acquisitions of U.S. banks should be extended until the Administration produces the McFadden study. GAO's concern is that the Administration must address the foreign acquisition "inequity" issue. Second, the leadership of the American Bankers Association has requested that the report be available for its September 1 special meeting on this issue. Finally, the agency draft recommendations have been published in banking trade journals, and the broad assault on McFadden in the agency draft has riled bankers unnecessarily. The more moderate proposals we have suggested to you are controversial but far less inflammatory than what they believe is forthcoming.

We recommend that the report be submitted to Congress during the week of August 18.

V. Decision

Approve recommendations as modified
(DPS, CEA, OMB, Treasury, Justice)

✓

Disapprove

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for Preservation Purposes

Stu - This is difficult for me to understand, & I reserve judgement on my own ultimate position. I like the SUSA restriction on interstate acquisitions, for instance, as a pre-cautionary measure.

p.s. Go ahead. I'd like to know what Herb & Lance think