

**NLWJC - KAGAN**

**WHORM - BOX 002 - FOLDER 062**

**FG031      137736CU**

# FOIA MARKER

**This is not a textual record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.**

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**Collection/Record Group:** Clinton Presidential Records  
**Subgroup/Office of Origin:** Records Management - SUBJECT FILE  
**Series/Staff Member:**  
**Subseries:**

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**OA/ID Number:** 21895  
**Scan ID:** 137736CU  
**Document Number:**

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**Folder Title:**  
FG031

Stack:	Row:	Section:	Shelf:	Position:
<b>S</b>	<b>84</b>	<b>2</b>	<b>4</b>	<b>1</b>

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	From: J. Patrick Lyons To: Bill Clinton; RE: Address and phone number (partial) (1 page)	10/28/1995	P6/b(6)

### COLLECTION:

Clinton Presidential Records  
WHORM-Subject File-General  
FG031  
OA/Box Number: 21895

### FOLDER TITLE:

137736cu

2009-1006-F  
db1551

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 95/10/31

Name of Correspondent: J. Patrick Lyons

MI Mail Report User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Unconstitutionality of several Congressional members' elected status

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
<u>CU Mikva</u>	ORIGINATOR	<u>95/10/31</u>	<u>WS</u>	<u>C 95/10/31</u>
<u>CU AT 26 Kagan</u>	<u>A</u>	<u>95/11/03</u>	<u>WS</u>	<u>1/1</u>
		<u>1/1</u>		<u>1/1</u>
		<u>1/1</u>		<u>1/1</u>
		<u>1/1</u>		<u>1/1</u>

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: \_\_\_\_\_

SCANNED

Keep this worksheet attached to the original incoming letter.  
 Send all routing updates to Central Reference (Room 75, OEOB).  
 Always return completed correspondence record to Central Files.  
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

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1571306a

J. Patrick Lyons

P6/(b)(6)

[001]

28 October 1995

**Subject:** G.O.P. Congressional Budget - Passed 26 October 1995

The President  
**Mr. Bill Clinton**  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Mr. President:

There are presently approximately 38 Members of the United States House of Representatives who are ineligible pursuant to the Constitution of the United States, **one being William Van Hilleary, Captain, United States Air Force Reservist - U. S. House of Representative for the 4th Tennessee Congressional District**, to be Members of the United States House of Representatives. Thus, since said Members are serving in contravention to the Constitution of the United States, said Members votes are not valid. Therefore, the G.O.P. Congressional Budget passed on the 26th day of October 1995, cannot legally be recognized as a valid Budget because of the fact said Budget was passed in part by votes cast by Members ineligible to be Members of the United States House of Representatives.

**Background:** The above referenced approximately 38 ineligible Members of the U.S. House of Representatives are Members of the United States Armed Forces reserves and Office holders pursuant to the Constitution of the United States, Article 1, Section 6, Clause 2, which provides: **"no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office"; and Section 3 of the 14th Amendment disqualifies any person "who, having previously taken an oath . . . to support the Constitution of the United States, . . . thereof."**

(1) Per request of President Roosevelt, in 40 Op. Gen. 301 (1943) Attorney General Biddle advised President Roosevelt in part: **"An officer of the Army or Navy is, in general, a person holding office under the United States." "Both the House and Senate, exercising their constitutional prerogative, have determined upon occasions in the past that service with the armed forces of the United States is**

**incompatible with membership in the Congress."** "The Constitution (Art. I, Sec. 6, Cl. 2) provides that "no person holding any office under the United States, shall be a member of either House during his continuance in office", and Sec. 3 of the 14th Amendment disqualifies any person "who, having previously taken an oath . . . to support the Constitution of the United States, . . . thereof." "An officer of the Army or the Navy is, in general, a person holding office under the United States. United States v. Mouat, 124 U.S. 303; United States v. Carter, 217 U.S. 286; Hoeppe v. United States, 85 F. (2d) 237. "Exercising this authority both the House and the Senate have upon occasions in the past determined that service with the armed forces of the United States is incompatible with membership in Congress. These decisions are cited in the United States Code, Annotated, under Art. I, Sec. 6, Cl. 2 of the Constitution, and include the following; House Miscellaneous Documents, 38th Cong., 2d sess., v. 3, pp. 92 (Baker and Yell), p. 395 (Byington v. Vandever); Senate Miscellaneous Documents, 52d Cong., 2d sess., v. 6, p. 180 (Stanton v. Lane)."

Quoted below is from the report of the House Committee of Elections in the case of Byington v. Vandever:

**"He has no right as representative to absent himself from the House without leave; and if he does, is liable to be arrested by the officer of the House, and returned and punished. But he is also bound as an officer of the Army to be with his regiment, (perhaps a thousand miles distant) ready to execute the commands of his superior officer: and for this default, is liable to punishment -- it may be with death. Or his military supervisor may take him by force from his seat and duties in the House to his post in the Army. That such a physical impossibility as is thus created, to execute the duties of both offices, renders them incompatible, would seem to be beyond a doubt. But there is also that in the nature of the powers incident to the two positions renders them incompatible \*\*\*"**

Mr. President and Commander In Chief of the United Armed Forces, with all due respect I say to you, pursuant to the Constitution of the United States, it is your duty to uphold the Constitution of the United States and to Command the United States Armed Forces, therefore, it is the duty assigned to the President pursuant to Section 3 of the 14th Amendment which **"disqualifies any person "who having previously taken an . . . oath to support the Constitution of the United States, . . . ,"** in violation to Article 1, Section 6, Clause 2, which provides **"no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office,"** to disqualify each Member of the United States Congress who is seated in

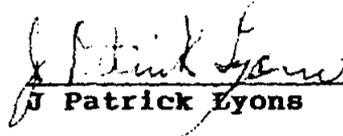
violation to the Constitution of the United States, Article 1, Section 6, Clause 2. "The Government of the United States is subject to the Constitution." **James v. Campbell, 104 US 356.** "Congress has no power to supersede the Constitution." **White v. Hart, 13 Wall 646.**

The G.O.P. Congressional Budget passed on the 26th day of October 1995, is non-binding on the United States Government because of the fact said Budget was voted on by Members of Congress who are ineligible to hold Office pursuant to the Constitution of the United States, thus, their ineligibility to hold their respective Congressional Seats, would cause any reasonable minded person to believe that each vote cast by each ineligible Member to be invalid, therefore, said G.O.P. Budget as referenced herein, must be returned to Congress to be voted on by eligible voting Members only.

As Commander In Chief, you are vested with authority to call to active duty each Member of Congress who is a Member of the United States Armed Forces Reserves. If this were to be done, there would be approximately 38 Members ineligible to vote because of the fact they would be performing Active Military duty. However, if Members in questions are not disqualified pursuant to Section 3 of the 14th Amendment, to people who have knowledge of ineligible seated Congressional Members, it will appear that the Constitution of the United States does not apply to Members of Congress, giving the impression that our leaders, whether eligible or not, are above the Constitution of the United States.

I thank you in advance for your time, and I hope that this information I have provided to you which appears to have been overlooked by your Staff, will assist you after you will have vetoed the herein referenced G.O.P. Budget, in obtaining a more favorable Budget for all Peoples of the United States of America.

Respectfully submitted,

  
\_\_\_\_\_  
J Patrick Lyons

cc:

**The Office of the Counsel  
to the President  
Attn: Abner J. Mikva  
Counsel to the President  
1600 Pennsylvania Avenue  
Washington, D.C. 20500  
Telephone: 202-456-7900**

Vice President  
**Mr. Albert Gore**  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

The First Lady  
**Mrs. Hillary Rodham Clinton**  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500