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UNITED NATIONS  NATIONS UNIES  
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FILE NO.:

CONFIDENTIELLE

*Mr. Poffe*

le 19 novembre 1953

*Please, return to 447.*

Cher Monsieur Hammarskjöld,

En me référant à l'entretien que vous avez bien voulu m'accorder le 17 novembre 1953, j'ai l'honneur de vous faire parvenir, conformément à votre demande et pour votre usage personnel, un exposé des raisons qui, à l'avis de la Commission du droit international, justifieraient une autre attitude de certains organes d'ordre financier et, notamment, du Comité Consultatif, que celle adoptée à l'égard de la Commission pendant ces dernières années.

De certains côtés on semble considérer la Commission du droit international comme une commission qui ne se distingue des nombreuses autres commissions d'experts des Nations Unies que par la mesure où les membres surestiment leur propre importance, la haute indemnité journalière qu'ils touchent, les difficultés qu'ils font à l'égard de la date et du lieu de leurs sessions, le nombre restreint d'heures qu'ils travaillent et la rémunération injustifiée pour des rapports qui doivent servir de base aux discussions. A cet égard je voudrais faire les observations suivantes :

Monsieur Dag Hammarskjöld,  
Secrétaire général  
de l'Organisation des Nations Unies.



1. La Commission du droit international est la seule commission dont les membres sont directement élus par l'Assemblée générale, ce qui est une indication de l'importance que les Nations Unies attachent à la qualité de cette Commission.

2. Les membres de cette Commission sont pour la plupart des hommes revêtant des positions dans leur pays et dans le monde scientifique international qui ne leur rendent pas comparables aux membres de bien d'autres commissions. Cela justifie, à l'avis de la Commission, de leur accorder une plus grande indemnité journalière qu'aux commissions d'experts en général.

3. Par la nature des choses les membres de la Commission du droit international sont pour la plupart des hommes d'un certain âge, justifiant qu'en fixant le lieu et la date des sessions on tienne compte des conditions climatologiques dans une plus large mesure que ce serait le cas à l'égard d'autres commissions d'experts, et que, notamment, on évite de les convoquer à New-York pendant les mois d'été.

4. Le fait qu'environ un tiers des membres de la Commission du droit international sont des professeurs d'université a pour conséquence que les mois d'été, c'est-à-dire l'époque des vacances universitaires, sont spécialement indiqués pour les sessions de la Commission. Il s'ensuit, vu ce qu'il a été dit sous le paragraphe 3, que le siège de l'Office européen des Nations Unies, Genève, est mieux approprié à cet effet que New-York.



5. Le caractère scientifique du travail exige que ce travail soit arrangé de manière à permettre aux membres de se consacrer, pendant les sessions, à une étude approfondie des problèmes qui surgissent et des documents que l'on présente. Jusqu'à présent, les réunions ont eu lieu régulièrement pendant cinq jours par semaine, de 9.30 heures du matin jusqu'à 13 heures; parfois on se réunit également le samedi matin. Les après-midis sont souvent destinés à des réunions de sous-commissions ou de comités de rédaction.

6. Les rapports dont la Commission charge chaque année certains de ses membres afin de préparer la discussion, exigent des études scientifiques approfondies pendant les périodes entre les sessions. A titre d'exemple, je voudrais citer le rapport présenté par M. Lauterpacht lors de la dernière session, concernant "le droit des traités", auquel il a travaillé pendant cinq mois, voués exclusivement à cette étude. La rémunération est strictement limitée à des rapports de cet ordre; il n'a jamais été question de rémunérer les rapports généraux sur le résultat des travaux pendant une session qui sont présentés à l'Assemblée générale, et qui sont les seuls comparables aux rapports dressés par la plupart des autres commissions d'experts.



Certains organes ne semblent pas disposés à tenir compte de ces conditions divergentes dans la mesure que la Commission du droit international estime justifiée, et ils considèrent tout ce que la Commission fait et ce qu'elle demande avec la plus grande méfiance.

Je vous ai déjà signalé la situation peu satisfaisante qui se présentera l'année prochaine quand la Commission se réunira, il est vrai, à Genève, mais pendant une période (du 3 mai au 29 juin) qui, à l'avis de la Commission est trop courte pour accomplir la tâche qui lui a été conférée et qui causera probablement l'absence de plusieurs membres pendant plusieurs semaines.

Attoute fin utile je joins à la présente lettre un memorandum qui m'a été transmis par Monsieur Liang et qui contient un exposé des faits ayant trait aux "per diem allowance and honoraria for the International Law Commission", auxquels je me suis référé aux paragraphes 2 et 6 de mon exposé.

En réitérant mes remerciements pour l'attention que vous avez bien voulu accorder à cette question, je vous prie, cher Monsieur Hammarskjöld, d'agrèer l'assurance de ma considération la plus distinguée.

A handwritten signature in blue ink, reading "J.P.A. François".

J.P.A. François,  
Président de la  
Commission du droit international

MEMORANDUM

PER DIEM ALLOWANCE AND HONORARIA FOR THE  
INTERNATIONAL LAW COMMISSION

1. The Fifth Committee of the General Assembly, at its 403rd meeting on 6 November 1953, decided to recommend to the General Assembly the adoption of the following resolution:<sup>1/</sup>

"The General Assembly,

Noting resolution 505 P III (XVI) adopted by the Economic and Social Council on 28 July 1953, concerning the question of the remuneration of members of the PCOB and the Drug Supervisory Body,

Noting also the intention of the Secretary-General to undertake during 1954 a comprehensive study of the committees of the United Nations and to submit proposals to the General Assembly at its ninth session;

Requests the Secretary-General to circulate his proposals, together with the comments of the Advisory Committee on administrative and budgetary questions, to all members four weeks before the opening of the ninth session of the General Assembly."

2. This paper is intended to indicate the possible bearing of the foregoing resolution, in the event of its adoption by the General Assembly, upon the special allowance for members of the International Law Commission and the honoraria for the chairman and special rapporteurs of that Commission.

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<sup>1/</sup> A/C.5/SR.403, pp. 3-4.

The Prevailing Practice

3. Under article 13 of the Statute of the International Law Commission, as amended by the General Assembly resolution 486 (V) of 12 December 1950, "Members of the Commission shall be paid travel expenses, and shall also receive a special allowance, the amount of which shall be determined by the General Assembly". By the same resolution, the General Assembly fixed the said "special allowance" at thirty-five dollars (\$35) per day. Apart from this special allowance, an honorarium of one thousand and five hundred dollars (\$1,500) per year is paid to the chairman and each special rapporteur of the Commission. This is the prevailing practice as regards the International Law Commission.

4. As for other commissions and committees the members of which are, under General Assembly resolution 231 (III) of 8 October 1948, entitled to a subsistence allowance, the prevailing rate of such allowance is twenty-five dollars (\$25) per day for commissions meeting at Headquarters in New York and twenty dollars (\$20) per day for those meeting at Geneva or at any other place away from New York. This rate was fixed in virtue of General Assembly resolution 459 (V) of 1 December 1950 and has been in effect since 1 January 1951.

General Assembly Resolution on Payment of Honoraria  
to Rapporteurs of United Nations Bodies

5. The question of payment of honoraria to rapporteurs of United Nations bodies in general arose in the seventh session of the General Assembly in connection with a resolution of the Economic and Social

Council (No. 442 C (XIV) of 13 June 1952) to appoint, for an experimental period of one year and in a personal capacity, a rapporteur on matters relating to freedom of information. In view of this resolution, the Secretary-General submitted to the General Assembly budget estimates providing, in addition to travel and subsistence of the rapporteur, etc., an "honorarium for the rapporteur" in the amount of two thousand and five hundred dollars (\$2,500).<sup>2/</sup>

6. The Advisory Committee on Administrative and Budgetary Questions, commenting on this item in the estimates, declared in its report that it "deprecates the payment of an honorarium to rapporteurs of United Nations bodies and as an alternative would have preferred that provision would be made on a per diem basis within a maximum of \$2,000". It recalled that "only in exceptional cases has the General Assembly concurred in the payment of honoraria for work performed on behalf of the United Nations".<sup>3/</sup>

7. When the question came before the Fifth Committee at the seventh session of the General Assembly, the Committee approved a United States proposal to restore the honorarium as provided in the Secretary-General's estimates. At the same time, however, it referred to the Advisory Committee a draft resolution also proposed by the United States whereby the General Assembly would instruct all organs of the United Nations to

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<sup>2/</sup> "Revised estimates for sections 3, 10, 11, 20 and 25: report of the Secretary-General", A/C.5/49B, 20 October 1952, para.9.

<sup>3/</sup> "Eighth Report of the Advisory Committee", A/2245, 1 November 1952, para.11.

obtain prior General Assembly approval before taking decisions which would involve commitments to pay honoraria.<sup>4/</sup> In its report, the Advisory Committee emphasized "the fact that funds of the United Nations cannot be lawfully committed by its organs, except by specific or delegated authority of the General Assembly".<sup>5/</sup> The Fifth Committee eventually adopted, by 46 votes to none with 2 abstentions, a draft resolution submitted by the Advisory Committee.<sup>6/</sup>

8. The draft resolution adopted by the Fifth Committee was approved unanimously by the General Assembly on 21 December 1952.<sup>7/</sup> This became General Assembly resolution 677 (VII) and read as follows:

"The General Assembly,

Recognizing that the appointment of a person as rapporteur of a United Nations body confers honour upon his country and distinction upon himself,

"1. Considers that no such appointment should carry remuneration;

2. Requests all organs of the United Nations to bear in mind in future the views of the General Assembly as expressed in the present resolution."

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<sup>4/</sup> A/C.5/L.187, also reproduced in A/C.5/SR.356, para.11.

<sup>5/</sup> "Sixteenth report of the Advisory Committee: payment of honoraria to rapporteurs of United Nations bodies", A/2264, 20 November 1952.

<sup>6/</sup> Discussions in the Fifth Committee were summarized in the Report of that Committee to the General Assembly, A/2352, 20 December 1952, paras.27-29. The draft resolution figured in the report as "draft resolution B".

<sup>7/</sup> Official Records of the General Assembly, 7th Sess., 410th Plenary Meeting, para.23.

Discussion in the Eighth Session of the General  
Assembly of the Question of Honoraria for the  
International Law Commission

9. While the above-quoted resolution regarding payment of honoraria for rapporteurs of United Nations bodies in general has not in fact been applied to the International Law Commission as constituted at the time, the question was, however, raised by the Advisory Committee in its report to the General Assembly on the budget estimates of the Commission for the financial year 1954. Paragraph 57 of this report said:

"As regards chapter IV (International Law Commission) the Advisory Committee, while not making a firm recommendation, draws attention to the fact that the present tenure of office of the Commission's membership will expire in November 1953. The General Assembly may therefore deem it opportune to review the system, in force since 1950, of paying annual honoraria to the Chairman and five rapporteurs of the Commission. Any such review should, in the Advisory Committee's opinion, take account of two main considerations: first, that the decision to pay such honoraria was taken in 1949 on a particular case and without prejudice to any future solution of the question of emoluments for rapporteurs of the International Law Commission or other body; and, secondly, that the General Assembly in 1952 clearly recorded its opinion on the payment of honoraria to rapporteurs of United Nations bodies."

It then quoted in part resolution 577 (VII) reproduced in the preceding paragraph. <sup>B/</sup>

10. When the budget estimates for the International Law Commission <sup>2/</sup> were considered by the Fifth Committee at the current (eighth) session of the General Assembly on 15 October 1953, the Chairman of the Committee (Mr. Khalidy, Iraq) drew attention to the comment (quoted in the preceding

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<sup>B/</sup> "First report to the eighth session of the General Assembly" by the Advisory Committee, A/2403, para.57.

<sup>2/</sup> "Budget Estimates for the Financial Year 1954 and Information Annex" submitted by the Secretary-General, A/2363, pp.31-32.

paragraph) of the Advisory Committee concerning honoraria in the budget of the International Law Commission. He said that "a similar question arose in connection with Economic and Social Council resolution 505 F III (XVI) on the remuneration of members of the Permanent Central Opium Board and the Drugs Supervisory Body, which was a separate item on the Committee's agenda and on which the Secretary-General had just submitted a report (A/2509)". He added that he "would suggest that the [Fifth] Committee should discuss the two questions together in connection with the latter report" of the Secretary-General.<sup>10/</sup> The budget estimates as recommended by the Advisory Committee for the International Law Commission were eventually approved unanimously.<sup>11/</sup> These estimates include nine thousand dollars (\$9,000) to cover payment of an honorarium of one thousand and five hundred dollars (\$1,500) each to the Chairman and five rapporteurs of the Commission.

The Question of Remuneration of Members of the  
Permanent Central Opium Board and the Drug Supervisory Body

11. The Permanent Central Opium Board was created by the Convention<sup>12/</sup> of 19 February 1925 on Narcotic Drugs, as amended by the Protocol of 11 December 1946 signed at Lake Success, and consists of eight persons appointed by the Economic and Social Council. In its 1952 report<sup>13/</sup> to

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<sup>10/</sup> A/C.5/SR.391, p.2.

<sup>11/</sup> Ibid., p.4.

<sup>12/</sup> The text of Convention, as amended, may be found in U.N. Publications, Sales No.: 1947. XI. 4.

<sup>13/</sup> E/OS/S, see especially Section IX, paragraph 2, at p.20.

the said Council, the Board stated that the members of the Board and of the Drug Supervisory Body considered that "a positive solution must be found for the problem" of providing remuneration for them. It was said, inter alia, that, under article 19 of the aforesaid Convention, the Board consists of persons who "by their technical competence, impartiality and disinterestedness, will command general confidence". Moreover, the same article provided that the members "shall not hold any office which puts them in a position of direct dependence on their Governments" -- a provision which does not apply to any other United Nations body. The Board also asserted that "the principle of granting the members of the Board an allowance representing the value of their services and providing some compensation for the material sacrifices entailed by their work on the Board had long been recognized". The volume of work had increased and had extended beyond regular sessions. The Board and the Drug Supervisory Body were suffering an injustice, "having regard to the remuneration given in the United Nations to similar bodies". It will be noted that, as both organs meet in Geneva, members of the Board and those of the Supervisory Body are being paid a subsistence allowance (per diem) of twenty dollars (\$20) per day for the duration of sessions. Prior to the creation of the United Nations, they used to receive a subsistence allowance of seventy gold francs per day.

12. Having regard to this appeal of the Permanent Central Opium Board, the Economic and Social Council, on 28 July 1953, adopted resolution 505 F III (XVI) whereby the Council,

"1. Supports the conclusions of the Board that

the present position regarding remuneration is unsatisfactory, that the time has come when the whole question of the remuneration of the members of these bodies should be reviewed, and that a positive solution for the problem must be found; and

2. Recommends to the Assembly that the matter be given favourable consideration with a view to appropriate budgetary provisions being made."

13. With reference to the foregoing resolution, the Secretary-General 14/ submitted a Report to the General Assembly at its current (eighth) session. In this report, the Secretary-General, among other things, recalled that the Economic and Social Council had previously recommended that the Advisory Committee on Budgetary and Administrative Questions should examine the question of remuneration of members of the same Board and Supervisory Body. 15/ The conclusion of the Advisory Committee, contained in its second report of 1948, was then that "there existed no reason for deviating from the principle . . . that allowances paid to members of commissions or committees represented subsistence and not a fee for services". 16/ The report of the Secretary-General went on to state that the General Assembly at its fifth session had authorized a special allowance of thirty-five dollars (\$35) per day for members of the International Law Commission. The report added that the chairman and five rapporteurs of the Commission continued to receive honoraria in the amount of one thousand and five hundred dollars (\$1,500) each and called attention to the comment, quoted in paragraph 9 of this paper, of the Advisory Committee on this point. The report concluded with the following paragraph:

"13. The Secretary-General suggests that the

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14/ A/2509, 14 October 1953.

15/ ECOSOC resolution 123 D (VI).

16/ A/598.

Fifth Committee may wish to review the question raised in Economic and Social Council resolution 505 F (XVI) and included as item 68 (b) of the General Assembly's agenda, prior to its review of section 3 a of the 1954 budget estimates, so that the decisions reached may be taken into consideration when the budget estimates for that section are dealt with."

14. The question was referred by the Fifth Committee to the Advisory Committee together with the aforesaid report of the Secretary-General. <sup>17/</sup>

The Advisory Committee in its report stated:

"4. The Advisory Committee is informed that the Secretary-General while recognizing the problem to which the present rate of allowance gives rise in the case of these two bodies, does not feel that proposals can at present usefully be submitted, in view of the complexity of this matter, which may affect the general system of subsistence allowance for members of commissions and committees of the United Nations, and in view also of the financial consequences which an isolated decision in a specific case might produce. The Committee understands, however, that it is the intention of the Secretary-General to undertake, during 1954, a full study of the question and of its relation to other United Nations bodies, and to submit proposals to the General Assembly at its ninth session."

"5. The Advisory Committee is in agreement with such a procedure, which it accordingly recommends for acceptance to the General Assembly." <sup>18/</sup>

15. The report of the Secretary-General and that of the Advisory Committee referred to above were considered by the Fifth Committee on 6 November 1953. After a very brief discussion, in which only two representatives took part, the Fifth Committee, on the proposal of its Chairman, adopted a draft resolution, the text of which is quoted in full in the opening paragraph of this paper. <sup>19/</sup>

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<sup>17/</sup> A/C.5/SR.378, para.19.

<sup>18/</sup> Tenth report of the Advisory Committee, A/2528, paras.4 and 5.

<sup>19/</sup> A/C.5/SR. 403, pp.3-4.

UNITED NATIONS



NATIONS UNIES

STAFF ASSOCIATION

30 September 1953

Dear Mr. Hammarskjold:

Knowing how busy you must be with the General Assembly in session, the Staff Committee has hesitated for some weeks to request an interview with you.

However, a number of questions on which we feel that discussion with you would be valuable have now accumulated, including a misunderstanding that appears to have arisen in connection with the Staff Committee Circular of today's date.

May I therefore ask you to consider the possibility of granting us a little of your time? The principle subjects which we wish to take up with you are the following:

1. The judgment of the Administrative Tribunal before the General Assembly.
2. The interrogation of staff members by national agents.
3. Representation of the staff on certain Secretariat committees, and procedures for the selection of staff representatives.
4. Retirement Age.
5. The progress of round-table consultation in the Secretariat.
6. The expansion and improvement of the 'Secretariat News'.
7. The Staff Committee Circular.

Yours sincerely,

*R. Daniel Hogg*

R. Daniel Hogg  
Chairman, Staff Committee

Mr. Dag Hammarskjold  
Secretary-General of the United Nations

UNITED NATIONS • NATIONS UNIES

BRANCH OFFICE FOR THE UNITED STATES  
HIGH COMMISSIONER FOR REFUGEES

DELEGATION POUR LES ETATS UNIS  
HAUT COMMISSARIAT POUR LES REFUGIES

INTEROFFICE MEMORANDUM

TO: Mr. Dag Hammarskjöld, Secretary General.

21 October, 1953.

FROM: Dr. G.J. van Heuven Goedhart, High Commissioner for Refugees.

SUBJECT: Aide Mémoire.

PERSONAL

1. For practical reasons I have put on paper those issues which I had the pleasure of discussing with you this morning and on which any action on your part may be considered.
2. I am glad to have seen the opinion of your legal department according to which there is no reason to bar members of the staff of UNHCR from having permanent contracts with the U.N. That opinion seems to me to be in full conformity with the thesis that that staff is "part of the U.N. Secretariat". I have requested you, however, to "push the button" so as to make the machinery work, i.e. to instruct the appropriate authorities to implement in practice the ruling that the UNHCR-staff does qualify for permanent contracts.
3. An aspect of the UNHCR-staff being part of the Secretariat is the full integration of the UNHCR-administration into the U.N.-administration in Geneva. This integration has now been brought about and I can only speak in terms of the highest praise of the cooperation I receive from Mr. Pelt's staff (as far as these matters are concerned, very ably headed by Mr. A. Lethbridge).  
Another aspect of the same situation is that from now on I will follow exactly your line of policy with regard to all matters relating to the security-clearance of staff-members, a decision which I consider to be consequential to the application of all the staffrules (including those regarding permanent contracts) to the UNHCR-staff.
4. A matter which causes me much concern is that of the "hospitality-fund" at Head Quarters from which I receive for the total of my personnel (Geneva Head Quarters plus Branch Offices) \$ 1000.- a year. In particular for the Branch Offices it hardly needs to be pointed out that the Heads of Mission (officially, after "agrément", accredited to the Governments of the countries where they have their offices) have to spend considerable amounts of money on social functions involving hospitality. Fully aware of the limited amount available altogether, I have requested you to take this paragraph into account if there were to be a review and redistribution of funds, available for hospitality-purposes.
5. I had the privilege of discussing with you a few other matters (special representative of the Council of Europe, desirability of a U.N. Fund for Emergencies like the Greek earthquakes etc.) but as I do not require any immediate action I will leave them out of this aide-mémoire.

Note concerning the proposal now before the Council of Europe  
for the appointment of a Special Representative for Refugees and  
Surplus Population

1. Asked for his advice, Mr. Hammarskjöld has stated that in his opinion the High Commissioner for Refugees should not accept the post of Special Representative, if it were offered to him. He feels, however, that the appointment of another "eminent European personality" to this post, even for one year, would involve serious dangers of overlapping and confusion of responsibilities and would accordingly be harmful to United Nations action in the field of refugees.

2. Mr. Hammarskjöld wonders whether an alternative solution could not be envisaged, namely that instead of an "eminent European personality" a good senior official should be appointed by the Council of Europe to work in Geneva in close co-operation with the High Commissioner, the ICRM, the ILO and the voluntary agencies. Such an arrangement, while avoiding the drawbacks of the previous proposal should, in his view, meet the purposes which the Council of Europe had in mind.

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29 October 1953

C. A. Stavropoulos

Mr. Labouisse's memorandum of 7 December 1955

1. You have asked me to comment on the legal side of the problem raised by Mr. Labouisse. The decision of the Syrian authorities is in violation of Articles 100 and 101 of the Charter and of sections 18(d), 24 and 25 of the Convention on the Privileges and Immunities of the United Nations, to which Syria is a party. Article 100 obliges Members of the United Nations to respect the exclusively international character of the responsibilities of the United Nations staff and not to seek to influence them in the discharge of their responsibilities, and Article 101 establishes the independence of the Organization in matters of appointment. Section 18(d) of the Convention renders United Nations officials immune from immigration restrictions, section 24 obligates parties to recognize and accept the laissez-passer as a valid travel document, and section 25 obligates them to deal with visa applications as speedily as possible and to grant facilities for speedy travel.

2. The Syrian attitude is the consequence of compromises and concessions made gradually over the past years by the UNRWA administration. Evidence of the deterioration of the situation is to be found in paragraph 20 of a statement (Press Release PM/3090) made by Mr. Labouisse to the Ad Hoc Political Committee on 30 November 1955. Then Mr. Labouisse said, in an attempt to redress a situation in which at least one government was insisting on "co-operation of the Agency in the appointment of personnel":

"The Agency is prepared to take under consideration the suggestion of governments - host and contributing governments alike - when selecting staff, but the final determination must rest with the Agency. I think everyone here will agree that this basic operating principle is sound. Of course, if a person selected by the Agency - whether from the area or outside - proves objectionable to the governments of the country in which he is to work, that government has every right to make known to the Agency the reasons for the government's objection. Those reasons obviously have to be appraised in each case by the Agency."

3. This approach is of course a realistic one, but a firmer stand in the past on the legal right and duty of independence of the United Nations in matters of appointment, and on the duty of governments to grant visas to its staff, might in the long run have produced better results. At any rate, your intervention in the question now appears to be essential.

4. I have prepared a draft letter in case you wish to send it to the Permanent Representative of Syria before your departure for Sweden. Alternatively, you could see the Permanent Representative when you come back and could hand him an aide-mémoire making the points in the draft, or you could direct me to see him and to hand him the aide-mémoire.

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Internal personal  
Secretariat papers 1953

(found in O'H's office  
after his death)