

CS

ID #

275273

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C0074

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☒ O - OUTGOING☒ H - INTERNAL☒ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1

Name of Correspondent:

Brian R. Jenkins

☐ MI Mail Report

User Codes: (A) _____

(B) _____

(C) _____

Subject:

U.S. loan Guarantees to Israel

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
	Cuofc	ORIGINATOR	DJ 91/10/01		C 91/11/04
	Cuat 14	Referral Note:	ADJ 11/10/02	DJ	C 91/11/04
		Referral Note:		See comments	
		Referral Note:			
		Referral Note:			
		Referral Note:			
		Referral Note:			

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:

CINDY - PLEASE REFER TO NSC

CS

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.

Transfer to NSC for reply -
Richard Haass should handle.

SR 11/4/91

RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents: _____ Media: _____ Individual Codes: _____

Prime Subject Code: _____ Secondary Subject Codes: _____

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

SIGNATURE CODES:

- CPn - Presidential Correspondence
 - n - 0 - Unknown
 - n - 1 - George Herbert Walker Bush
 - n - 2 - George Bush
 - n - 3 - George
- CLn - First Lady's Correspondence
 - n - 1 - Barbara Bush
 - n - 2 - Barbara
 - n - 3 - Bar
 - n - 4 - Mrs. Barbara Bush
- CBn - Presidential & First Lady's Correspondence
 - n - 1 - Barbara & George Bush
 - n - 2 - Barbara & George

MEDIA CODES:

- B - Box/package
- C - Copy
- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

16 0378K *Gray*

2200 Main Street, #650
Wailuku, HI. 96793

September 19, 1991

The President
THE WHITE HOUSE
Washington, D.C. 20500

Re: U.S. Loan Guarantees to Israel

Dear Mr. President:

I am writing this letter on behalf of my client, William R. Burt, to urge the government of the United States of America to refuse to guarantee loans to Israel that will favor the settlement of Soviet Jews in the occupied Arab territories. The reason why the United States should refuse to guarantee the loans is that such governmental action would violate the "Establishment Clause" of the First Amendment to the Constitution.

On September 8, 1991, Prime Minister Yitzhak Shamir stated at a meeting of activists from his conservative Likud block that "[a]ll the territories of Eretz Israel must be settled by Jews, more and more,...." Eretz Israel refers to the biblical land of Israel which includes the occupied Gaza Strip and the West Bank of the Jordan River. As such, the sought-after loan guarantees are to further a particular religious goal of the conservative party of Israel.

The issue is not whether the religious objective of recreating Eretz Israel is a worthy goal; the issue is whether the government of the United States of America is able to take official action which will further any religious goal including the one sought by Prime Minister Yitzhak Shamir.

Israel is occupied by persons of many different religions besides members of the Jewish faith, including Moslems and Christians of many different sects. For the United States to guarantee loans that would further the religious goals of one of these religions, would be preferential treatment of one religion over another.

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The phrase in the 1802 letter from President Thomas Jefferson to a group of Baptists in Dansbury, Connecticut wherein President Jefferson stated that the purpose of the First Amendment was to build "a wall of separation between Church and State," was referred to by Chief Justice Waite of the United States Supreme Court in Reynolds v. United States, 98 U.S. 145, (1879) as "almost an authoritative declaration of the scope and effect of the [First] amendment." Id. at 164. See, L. JAYSON, J. KILLIAN, S. BECKEY, T. DURBIN, THE CONSTITUTION OF THE UNITED STATES OF AMERICA (Cong. Research Service 1973)

The United States Supreme Court has established three tests to analyze government actions with regard to the Establishment Clause, the first two standards are part of the same formulation:

"The test may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion.

Abington School District v. Schempp, 377 U.S. 203, 222 (1963). (emphasis added)

The third test is whether the governmental program results in "an excessive government entanglement with religion. The test is inescapably one of degree...[T]he questions are whether the involvement is excessive, and whether it is a continuing one calling for official and continuing surveillance leading to an impermissible degree of entanglement." Waltz v. Tax Comm. of City of New York, 397 U.S. 664, 674-75 (1975).

In this case, the proposed loan guarantees fail all of the tests. The purpose for which Israel needs the loan guarantees is to further the religious goal of establishing Eretz Israel. This is in sharp contrast to providing U.S. assistance to further the secular goals of the Country of Israel.

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Furthermore, the United States would be called upon to supervise the loan guarantees over a long period of time.

There is a large body of U.S. Supreme Court case law that has applied the tests to various factual situations. For example, it was deemed permissible for the government to provide a grant towards the construction of a hospital owned and operated by a Roman Catholic order as there was a secular purpose. Bradfield v. Roberts, 175 U.S. 291 (1899). Likewise a state program can loan textbooks to a parochial school. Cochran v. Board of Education, 281 U.S. 370 (1931). However, funds may not be given to an institution which would help defray the cost of building or maintaining chapels or classrooms in which religion is taught. Com. for Public Education & Religious Liberty v. Nyquist, 413 U.S. 756, 774-780 (1973).

These cases, I believe emphasize that the involvement of the United States in guaranteeing loans to Israel which will further the religious purpose of establishing Eretz Israel would be in clear violation of the Establishment Clause of the First Amendment. In closing, I again urge you to do all in your power to keep the United States of America from involvement in the religious goals of the conservative party in Israel. Thank you for your attention.

Sincerely,



BRIAN R. JENKINS
Attorney for William R. Burt

BRJ:kla

cc: William R. Burt