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Berman, Ronald: Memoranda (1975-1984): Correspondence 11

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TO: SENATOR

FROM: LB

Jan 27

The attached is interesting and in line with my efforts to follow Berman leads whenever they appear and as time permits.

I must be in Phila. early tomorrow (Wednesday) to -- hopefully -- settle sale of mother's house and a strip of adjacent property which belongs to me. Will try to be back tomorrow afternoon in case you would want to discuss the Berman visit to you on Thursday... Perhaps if there is a snag with this timing we can have a few minutes on Thursday, but you may not feel this necessary.

Basically, I recommend the following:

-- that you listen to Berman's point of view

-- that you restate your own convictions and their unchanging quality briefly (copy attached of the position paper I prepared and which you've seen.)

-- that we avoid getting into any long argument, or hassle on specifics. Berman can muster lengthy counter-arguments... Fundamentally, this is a matter of judgment of a general situation -- not one which can be resolved by discussing minutiae.

-- that you mention the GAO audit. Preliminary indications are listed on the position paper... that you say that the audit does not lessen your sense of concern, but that it is a routine element in the situation, not a determining one... that whatever its outcome is, it will not alter your views.

-- that you indicate that we have other opinions from the Humanities community which corroborate your views, without mentioning any names -- but that these sources you respect. Again, I would stress that outside opinions are not going to change your own views at this time.

-- that you say you are prepared not to bring the matter to confrontation at present -- that naturally you would have to reassess that statement if there were inordinate pressures brought to bear.

-- that -- if asked by Berman how long you might wait -- you say possibly until after the election next fall.... that you had ~~no~~ wish to hurt a person's career or future potentials, but that you ^{can} see no happy ending for Berman in the matter were to be brought into a confrontation on which any immediate action was required.

He may ask if you would want his name withheld, by the White House.

I think the answer to this is that it is not up to you. You have made your views clearly known. You have made it known that you are not not changing these views -- you have made all this known to Berman. The rest is up to the White House and Berman, as far as sending his name forward, *goes*.

He will probably say that for his own record he would like to have the emersement of the President in a nomination for reappointment. I think you would say to this -- it's understandable, it could lead to confrontation under certain circumstances of pressure while a withholding would not -- and again, that it is up to those involved, not you.

He may ask for a commitment (unlikely, but perhaps we should be prepared) on not recommending another name, or backing another candidate -- a) if his name is withheld ; or b) if it is sent up and you sit on it.

In this case, I would recommend saying that you are not bout to enter into any inflexible arrangements... but, that as stated above, you were willing not to press your opposition and that this could continue until this year's elections. And that you have no one else in mind.

I have indicated that this could be a possible solution to the situation, while not closing off a full range of options for you. As mentioned the AFL-CIO was at first about to write a letter endorsing Berman which was not sent with Jack Geledner's help... Sidney Yates, the Arts and Humanities ~~Sec~~ Approps. Chairman, called me for a clarification of your views -- I know that he and Berman are (or were) on very friendly terms. Yates saw great advantages in no action now, and agreed that Berman would find an unhappy ending if confrontation with you were pushed. Berman was to see him later in the day he called -- no report on this, but I would not expect it.

The Press, The Star and the Chronicle of Higher Education, have been calling about the nomination -- I have simply said we have not received it.

But they will be calling again. If there is to be an agreement -- you will not press your opposition, provided you are not forced to do so by outside pressures -- I think we can have a good explanation for the Press.

For the Press I think these points could be made...

-- your opposition to Berman is unchanged, but it is based on a lack of high quality in performance, not on malfeasance in office or something similar

-- you do not wish to harm his future potentials or future career

-- you want to be as fair under the circumstances as possible

-- you are willing not to press your opposition now, and you might be willing to wait until next fall's election when a new President could present a new nominee... or if President Ford is reelected and this Berman nomination was still current, you would reconsider it then.

I put down these various points in some detail, as I think we should take the long look at all this, and see where it might lead.

There are bound to be unexpected developments, but I think the above leads us into a very valid stance, and I don't see any pitfalls.

One final thought:

Berman may ask for a commitment from you that if pressure is not exerted on his side, you guarantee your support for parity in funding with the Arts.

I think he would be stupid to make such a suggestion, but he just might.

I would recommend against making any such commitment. In fact I think you should put him on notice, if the subject comes up, that each Endowment is now mature enough and established enough to make its own case for appropriate funds.