

KEISLER, PETER D.: Files, 1986-1988 – REAGAN LIBRARY COLLECTIONS

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KEISLER, PETER D.: Files, 1986-1988

Counsel to the President, Office of: Associate Counsel to the President, Assistant Counsel to the President

Biography

Keisler was born on October 13, 1960 near his family's home in Woodmere, New York, one of the Long Island suburbs of New York City. His first paid work consisted of roles in television and radio commercials during his high school years. In June 1981, Keisler graduated *magna cum laude* from Yale University, with a B.A. in Political Science. He did a summer volunteer internship (June-September 1981) in the White House Office of Public Liaison, under Public Liaison staff member Morton Blackwell. In November, he took a position in the Leadership Institute, the private educational foundation founded by Blackwell.

Keisler left the Leadership Institute in the fall of 1982 to attend Yale Law School. Also in 1982, he helped found The Federalist Society. In 1984, while Keisler was still in law school, President Reagan appointed him to the National Advisory Council on Women's Educational Programs, a group of private sector and government representatives that recommended policies to achieve educational equity for women and girls. Keisler completed his National Advisory Council term, and obtained his law degree in June 1985. He then worked as a law clerk for Judge Robert H. Bork, a judge on the US Court of Appeals for the District of Columbia Circuit, until August 1986.

In September 1986, Peter Keisler joined the Reagan White House Counsel's office as an Assistant Counsel. He was promoted to Associate Counsel in June 1987, and remained in this position until he left the White House staff effective February 15, 1988.

After Keisler left the White House, he worked for a year as a law clerk for Supreme Court Justice Anthony Kennedy. From 1989 to 2002 Keisler was in the Washington, DC office of the law firm Sidley, Austin, Brown & Wood, first as an associate (1989-1993), then as a full partner (1993-2002). In 2001, President George W. Bush nominated Keisler for a seat on the US Court of Appeals for the 4th Circuit which had traditionally gone to a Maryland resident. However, Maryland's two Democratic Senators successfully blocked the nomination, in part on the grounds that while Keisler lived in Maryland, he was not licensed to practice law in that state. In June 2002, Keisler took a position in the Department of Justice. In April 2003, President Bush nominated him to be Assistant Attorney General for the Department of Justice's Civil Division. The Senate confirmed Keisler in June, and he was sworn in on July 1. In this position Keisler argued cases before many federal courts, including the Supreme Court, on behalf of the

Administration. For six months he was Acting Associate Attorney General, the third-ranking position in the Justice Department. In June 2006, President Bush nominated Keisler to the US Court of Appeals for the D.C. Circuit, to fill the position vacated by John G. Roberts when Roberts became Chief Justice of the Supreme Court. Keisler's nomination was returned to the White House twice by the Senate. The President renominated Mr. Keisler three times, the last being January 9, 2007. The Senate never acted upon his nominations.

During the George W. Bush administration, Keisler was appointed as the Assistant Attorney General for the Department of Justice's Civil Division and began work on July 1, 2003. Mr. Keisler was involved in defending the Bush Administration's policies in the Global War on Terror. He has also represented the government in defense of laws protecting access to abortion clinics and imposing requirements on telemarketing companies.

In probably the most well-known case he handled, Keisler argued on behalf of the government in *Hamdan v. Rumsfeld* in the D.C. Circuit and participated in both the case's appellate and Supreme Court briefs.

On September 6, 2007, Keisler announced his resignation from the Department of Justice in order to "spend time with his family." On September 17, 2007, President Bush announced that Keisler had agreed to remain at the Department of Justice as Acting Attorney General until the Senate confirmation of a new Attorney General. Keisler left the Department of Justice after Michael Mukasy was sworn in as the new Attorney General.

On March 18, 2008, it was announced that Keisler would be returning to his former position as a partner of Sidley Austin as a global coordinator of the firm's appellate practice in its Washington, D.C. office. On October 21, 2008, Sidley Austin announced that Keisler would be joining the firm's Executive Committee, the committee that exercises general authority over the affairs of the firm.

Keisler and his wife, Susan, have three children.

Scope and Content Note

Keisler's collection documents his specific White House Counsel assignments including working with the Independent Counsel investigating the Lyn Nofziger/Wedtech matter, responding to Freedom of Information Act and Privacy Act requests addressed to the White House, creating the background briefing books on Robert Bork, Douglas Ginsburg, and Anthony Kennedy, creating and implementing confirmation strategy for the Bork, Ginsburg and Kennedy nominations, reviewing legal issues and dealing with the release of Nixon Presidential materials, and working on the Legal Analysis Team reviewing the legal statutes covering the actions taken in the Iran-Contra Affair.

Keisler's records from his White House Counsel employment are somewhat different from other attorneys working within this office. His subject files rarely contain the actual work or response he conducted regarding the specific subject. This material is more likely found in the chronological file. Subject file folders often contain only citation and precedent material

regarding a particular issue. Fuller documentation for issues is found in the specific series regarding the Supreme Court nomination for the Powell Court vacancy, Legal Analysis Team for the Iran-Contra affair and the investigation of Wedtech/Welbilt.

The collection consists of five series: SERIES I: Peter Keisler Chronological File; SERIES II: Subject File; SERIES III: Supreme Court Nominations/Confirmations (contains four subseries); SERIES IV: Iran Contra/Iran-Contra Legal Analysis Team; SERIES V: Investigations

SERIES I: CHRONOLOGICAL FILE, 1986-1988. (2.8 l.ft., Boxes 1-7)

This series consists of correspondence, notes and, memos from Peter Keisler to White House Counsel staff, other White House staff, agency personnel, Congress and the general public. It contains the most complete set of Keisler's direct work product for his time in the White House Counsel's office. Background material is often attached to his correspondence including full White House Records Management Subject File case files where Keisler was the action officer. The material is arranged in chronological order.

SERIES II: SUBJECT FILE, 1986-1988. (6 l.ft., Boxes 8-22)

This series consists of mostly journal and newspaper articles, Lexus/Nexus searches, speeches, Congressional testimony, court decisions and filings and copies of Executive Orders, Public Laws and White House press release & signing statements. Subjects covered are the Task Force on Regulatory Relief, Sentencing Commission & reform, conflict of interest and ethical issues, the ineligibility clause, Independent Counsel regulations, judicial selection, affirmative action, Fairness in Broadcasting Act of 1987, some specific court cases and other selective subjects. As stated above, the material within this series tends to be background information rather than actions or decisions made by the Keisler or the White House Counsel's office. It is arranged alphabetically.

**SERIES III: SUPREME COURT NOMINATIONS/CONFIRMATIONS, 1987-1988
(12.8 l.ft.; Boxes 23-59)**

This series consist of material relating to the nomination of a new Supreme Court Justice to replace Justice Lewis Powell. Powell retired effective June 27, 1987. On July 1, President Reagan nominated Judge Robert Bork to replace Powell

Robert Bork, a Yale Law School professor, former Solicitor General and former Acting Attorney General was nominated by President Reagan as a circuit judge for the United States Court of Appeals for the District of Columbia Circuit on December 7, 1981. He was confirmed by the Senate on February 8, 1982, and received his commission on February 9, 1982.

Despite their previous approval, Democratic Senators Ted Kennedy and Joseph Biden led a very organized opposition campaign against Bork which began as soon as the nomination was announced. The Reagan Administration was slow to respond to this campaign and did not release any defense of Bork until two months after direct attacks on Bork began. Judge Bork was

not recommended to the Senate by the Senate Judicial Committee on October 9, 1987 in a nine-five vote.

Bork chose not to withdraw and his nomination went forward to the Senate where he lost his nomination on October 23, 1987 in a 58-42 vote.

Shortly after the collapse of the Bork nomination, President Reagan announced his intention to nominate Douglas Ginsburg for the open Supreme Court seat. Ginsburg who had been a professor at Harvard Law School, and served in the Reagan Administration as Administrator of the Office of Information and Regulatory Affairs, in the Office of Management and Budget, and as Deputy Assistant Attorney General and Assistant Attorney General in the Antitrust Division of the Department of Justice. And in 1986, Reagan had also nominated Ginsburg to be a circuit judge on the United States Court of Appeals for the District of Columbia Circuit

Ginsburg's nomination would collapse for entirely different reasons from Bork's rejection, as he almost immediately came under some fire when it was revealed that Ginsburg had used marijuana "on a few occasions" during his student days in the 1960s and while an Assistant Professor at Harvard in the 1970s. It was Ginsburg's continued use of marijuana after graduation and as a professor that made his actions more serious in the minds of many Senators and members of the public. Due to these allegations, Ginsburg withdrew his name from consideration, and remained serving on U.S. Court of Appeals for the District of Columbia Circuit.

Judge Anthony Kennedy, of the United States Court of Appeals for the Ninth District, was then nominated and confirmed as the 107th Associate Justice of the Supreme Court. The United States Senate confirmed him on February 3, 1988, by a vote of 97 to 0. Kennedy received his commission on February 11, 1988.

This series consists of four subseries: SUBSERIES A: Robert Bork Nomination (6.4 l.ft.; Box 23-38); SUBSERIES B: Douglas Ginsburg Nomination (3.6 l.ft.; Box 39-47); SUBSERIES C: Anthony Kennedy Nomination (2.4 l.ft.; Box 48-53); SUBSERIES D: Other Possible Nominations (.4 l.ft; Box 54).

SUBSERIES A: ROBERT BORK NOMINATION (6.4 l.ft.; Box 23-38)

This subseries consists of material related to the failed nomination of Robert Bork to fill the seat on the Supreme Court vacated by Justice Lewis Powell. It includes correspondence to the White House regarding support or opposition to Judge Bork; a review of all opposition groups and material; press releases, statements, article, and the President's address to the nation on the Bork nomination; background material on Bork particularly focused on his role in the Watergate scandal; copies of the Bork nomination hearings; a review of his confirmation as a circuit judge; strategy meeting material to advance the nomination; a copy of the "Response to Critics of Judge Bork" released by the White House in September 1987; possible Senate roll-call vote possibilities; and copies of most of Bork's previous judicial rulings and legal articles.

SUBSERIES B: DOUGLAS GINSBURG NOMINATION (3.6 l.ft.; Box 39-47)

This subseries consists of material related to the withdrawn nomination of Judge Douglas Ginsburg as a Justice of the United States Supreme Court. It includes copies of Judge Ginsburg's case files and rulings on the United States District Court and the Court of Appeals for the District of Columbia; testimony for Ginsburg's nominations for the District and Appeals Court; the chronological files of Ginsburg's service at the Office of Management and Budget (OMB), July 1984-July 1985; a review of Ginsburg work product from OMB, especially OMB affect and review of regulations in particular for the asbestos ban and phase-down, the Paperwork Reduction Act and fluoride and Volatile Organic Chemicals (VOC) drinking water standards, strategy memos and papers on how to promote Ginsburg nomination and lessons learned from its failure; and news articles about Judge Ginsburg

SUBSERIES C: ANTHONY KENNEDY NOMINATION (2.4 l.ft.; Box 48-53)

This subseries consists of material related to the nomination of Judge Anthony M. Kennedy as a Justice of the United States Supreme Court. The material consists of Judge Kennedy's writings, speeches, and court rulings at the Appellate Court level; his biography; American Bar Association rating; editing White House Public Affairs fact sheets on Kennedy; Justice Kennedy's private club memberships; briefings for his confirmation hearings; testimony from Kennedy's confirmation hearings; areas for Justice Kennedy's recusal from possible cases; news articles on Judge Kennedy and press releases. The material is arranged alphabetically by folder title.

SUBSERIES D: OTHER POSSIBLE NOMINATIONS (.4 l.ft.; Box 54)

This subseries consists of material related to the biographies, writings and news articles on a small set of alternate individuals as possible Supreme Court nominees. It is arranged alphabetically by the last name of the possible candidate.

SERIES IV: IRAN CONTRA LEGAL ANALYSIS TEAM, 1987-1988 (2 l. ft.; Box 55-59)

This series consists of material largely related to the Iran-Contra Affair. In 1986, members of the Reagan National Security Council illegally sold arms to Iran in the hope that Iran would put pressure on terrorist groups holding American hostages in Lebanon to release them. In addition, funds received from the sale of the arms were illegally transferred to support the Contra fighters against the Nicaraguan Sandinista government.

This series consists of material for use by the White House Legal Task Force, working with the Department of Justice on their own investigation of the Iran-Contra Affair. It also includes reference to the Independent Counsel investigation of Lawrence Walsh.

The material includes the legislative history of the Boland Amendment and other legislation on arms exports; a review of possible criminal consequences of violating the Boland Amendment; Congressional actions on Nicaraguan Contra funding; a review of fraud as a violation; legal analysis of Iran Contra transactions; and copies of statutes regarding the Iran-Contra Affair.

SERIES V: INVESTIGATIONS (1.2 l.ft.; Box 60-63)

This series consists of material largely related to the Wedtech Scandal, a political scandal related to the Independent Counsel investigations of Edwin Meese and Franklyn Nofziger

In the late 1970s and early 1980s the Wedtech Company (formerly the Welbilt Electronic Die Corporation) began focusing on winning small business set-aside contracts for the Department of Defense. As a major employer in a depressed part of New York City, Wedtech enjoyed a strong local reputation, and was even praised by President Reagan for the jobs it provided for those who might otherwise be forced onto welfare rolls.

Wedtech won many of its defense contracts without competitive bidding under the Small Business Administration (SBA) 8 (a) program giving preference to minority-owned businesses. Unfortunately, Wedtech was not a minority-owned business, and the company hid the controlling interest of Fred Neuberger through fraud, forging papers that claimed John Mariotta was still the primary owner of the company.

During the Reagan Administration, Wedtech began pressuring for contract awards using the relationship of their lobbyist, Robert Wallach, and President Reagan's Director of Political Affairs Lyn Nofziger and Counsellor to the President and later Attorney General Edwin Meese. Through these individuals Wedtech contacted Director of the Office of Public Liaison Elizabeth Dole. Through Dole, Wedtech won a \$32 million contract to produce small engines for the United State Army. This was only the first of many no-bid deals that eventually totaled \$250 million.

As the federal government began investigations of the Wedtech Company in 1986, its connection to the White House was soon discovered. An Independent Counsel was appointed by Congress, which later charged Meese with complicity in the scandal While Meese was never convicted of any wrongdoing, he resigned in 1988 when the independent counsel delivered the report on Wedtech. Nofziger was already being prosecuted for violating the Ethics in Government Act by contacting former White House and government colleagues before the allotted time lapse after his employment in the Reagan Administration.

This series contains material relating to the initial investigation of Lyn Nofziger's contacts with Administration officials after he left the White House, especially on behalf of his client Welbit/Wedtech. The material was initially compiled by White House Assistant Counsel J. Michael Luttig. This was later checked out to Peter Keisler once the Wedtech investigation and indictments began. It covers the Times Square rebuilding project; efforts to obtain contracts for Wedtech for small engines for the Army, ship building for the Navy and others. Included is request for documents from the Independent Counsel, lists and samples of documents provided; court transcripts of most proceedings; notes on meetings between White House Counsel and Nofziger and Meese and newspaper and computer news services (LEXUS/NEXXUS) accounts of the ongoing scandal and investigation. Later material is all the work product of Keisler.

CONTAINER LIST

SERIES I: PETER KEISLER CHRONOLOGICAL FILE

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[Bork Subject File: Bork Article]
[Bork Subject File: Bork "Blue Book"] (1)(2)
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