

September 20, 1977

**78-85    MEMORANDUM OPINION FOR A  
          PRESIDENTIAL ASSISTANT**

**Commemorative Proclamations—Issuance of**

This memorandum is in response to your request for our opinion on the extent to which issuance by the President of commemorative proclamations is mandatory.

There are some commemorative proclamations issued without congressional request, on the basis of longstanding tradition (*e.g.*, Thanksgiving Day, Small Business Week, Red Cross Month). Others are issued pursuant to joint resolutions of the Congress. Joint resolutions authorizing and requesting issuance of annual proclamations or a permanent proclamation are codified in 36 U.S.C., Ch. 9 (National Observances).

With respect to proclamations issued as a matter of tradition, issuance is discretionary and the President can if he wishes either discontinue issuing such proclamations or he can issue permanent proclamations calling for the observance of the occasion each year in the future so that further proclamations on the subject would not be necessary. Examples of permanent proclamations are Proclamation No. 2957 of December 13, 1951, 3 CFR 143 (1949-1953 Compilation), calling for the observance of Stephen Foster Memorial Day on January 13 each year, issued pursuant to 36 U.S.C. § 158, and Proclamation No. 3537 of May 4, 1963, 3 CFR 285 (1959-1963 Compilation), calling for the observance of Peace Officers Memorial Day on May 15 and Police Week, the week of May 15 each year, issued pursuant to 36 U.S.C. § 167.

All commemorative proclamations are purely hortatory and without legal force or effect, whether or not the Congress has requested that a proclamation on the subject be issued annually. Therefore, if the President should decline to honor a congressional request for issuance of an annual proclamation, it would be without legal ramification.

Perhaps the number of proclamations presented to the President for consideration could be reduced if the Congress were asked to review all existing

requests for issuance of annual proclamations with a view to eliminating some requests and substituting a request for a permanent proclamation.

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