



Office of the Principal Deputy Assistant Attorney General

Washington, D.C. 20530

November 22, 2002

**MEMORANDUM FOR ALBERTO R. GONZALES
COUNSEL TO THE PRESIDENT**

Re: Signing of H. J. Res. 124

Current law provides for continuing appropriations for fiscal year 2003 through November 22, 2002. Both Houses of Congress have passed H. J. Res. 124, which would extend the continuing appropriations for fiscal year 2003 through January 11, 2003. H. J. Res. 124 will take effect upon the President's approval.

The President is scheduled to return from abroad on November 23, 2002. He will not be able to sign H. J. Res. 124 by his own hand prior to his return. In the event that his return is delayed, the President is considering directing a White House aide to affix the President's signature to H. J. Res. 124.

The Constitution provides that a "Bill" that has passed both Houses of Congress becomes law when the President, having "approve[d]," "shall sign it." U.S. Const. art. I, § 7, cl. 2. It further provides that a "Resolution" "shall take Effect [when it] shall be approved by" the President. *Id.* art. I, § 7, cl. 3. On the assumption *arguendo* that a President must manifest his approval of a "Resolution" by "sign[ing] it" just as he would a "Bill," you have asked whether the President will have "sign[ed]" H. J. Res. 124 when a White House aide, acting at the President's specific direction, affixes the President's signature to H. J. Res. 124. For the reasons that we briefly outline here, we conclude that the answer is yes.

We do not believe that the requirement that a President "sign" a bill in order to manifest his approval of it requires that he personally put pen to paper any more than the requirement that he manifest his disapproval by "return[ing] it, with his Objections to that House in which it shall have originated," U.S. Const. art I, § 7, cl. 2, requires that he personally deliver the rejected bill to Congress. We believe, instead, that the word "sign" is expansive enough to include the meaning of "cause the bill to bear the President's signature." This Office has previously recognized the "principle of signatures" that "when a document is required by the common law or by statute to be 'signed' by a person, a signature of his name in his own proper or personal handwriting is not required." Memorandum attached to Memorandum for Gerald D. Morgan, Special Counsel to the President, from Malcolm R. Wilkey, Assistant Attorney General, Office of Legal Counsel, *Re: Responsibility of the President to sign bills passed by the House and Senate* (Aug. 19, 1958), at 9 n.5 (internal quotation marks omitted). Indeed, we have recognized

that it could well be unworkable to require that the President personally put pen to paper to sign a bill:

"If the President's hands only were to become disabled so that he could not personally sign his name, obviously some other means for affixing his signature would have to be used. Otherwise, no legislation could be approved because of the signing requirement of Article I, section 7 of the Constitution."

Memorandum *Re: Delegation of the President's Authority to Physically Sign Documents*, attached to Letter for the Honorable John D. Ehrlichman, Counsel to the President, from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel (March 20, 1969), at 8.

We emphasize that our conclusion is consistent with the principle that the President may not *delegate* to another person his authority to sign a bill. This non-delegation principle means, for example, that if a White House aide were to sign his own name to a bill, that bill would not thereby become law. By contrast, the President's directive to an aide to affix the President's signature to a bill does not involve a delegation of authority.

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