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## Slice of History: Lloyd Cutler and the Carter White House

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*Thirty years ago, the firm—and the world—was a very different place. Jimmy Carter was in the White House, moviegoers were lining up to see Caddyshack, The Shining and The Empire Strikes Back, and the Internet was barely a glimmer on the horizon. While a sizeable contingent of our current firm population had not yet been born, those in the workforce conducted business without the aid of personal computers, email, cell phones, PDAs or Google—although they did benefit from one brand new addition to the office supply line-up, the Post-It Note. And yet, the precursors of today's international political landscape, and our own firm culture, were clearly in evidence. The eyes of the world were on Iran, Iraq and Afghanistan, and Wilmer Cutler Pickering founding partner Lloyd Cutler—laying the foundation for the firm's tradition of government service in his first stint as White House counsel—was at the epicenter of world events as they unfolded.*

Cutler became White House counsel in October 1979, just one month before the Iranian hostage crisis would dominate the world stage. Cutler had gotten to know Carter in the mid-1970s, thanks to an alphabetical quirk of fate that saw the two men seated near each other during meetings of the Trilateral Commission, and had done some work for the Carter Administration while with the firm. Notably, in spring 1979, he had agreed to help the administration prepare to present the SALT II Treaty—arising from the Strategic Arms Limitation Talks with the Soviet Union—to the Senate for ratification.

When the call came to take on the White House counsel post, Cutler was vacationing on a canal barge in the French countryside. It was August, the summer of Carter's famous "Crisis of Confidence" speech, in the lull between Congress adjourning and the beginning of the Senate's SALT II hearings. White House operators tracked Cutler down to put through a call from Carter Chief of Staff Hamilton Jordan, who asked Cutler to return to Washington immediately to talk.

For all that the role of White House counsel appealed to Cutler, his decision to leave the firm did not come easily. Louis Cohen, a then-Wilmer, Cutler & Pickering<sup>1</sup> partner and close friend of Cutler's—now senior counsel with the firm—remembers receiving a call from Cutler on the day he spoke with the President about the counsel post. "He wasn't really asking me to tell him whether to accept it or not," Cohen recalls, "but we were close all along and he asked me about it."

A concern of Cutler's, says Cohen, was how the firm would fare without him. Many years earlier,

Cutler had turned down the chance to join the Kennedy Administration as assistant secretary of state for economic affairs, a move that might have spelled the end for Wilmer Cutler Pickering before it had truly begun. By 1979, the firm was well beyond its infancy, but Cutler's stature was such that the impact of his departure would be felt. And it was not easy for Cutler, on a personal level, to walk away from all that he and John Pickering had built since the firm's founding in 1962. "It made me regret that I was giving it up," Cutler commented in a spring 2005 oral history interview.<sup>2</sup>

"There was no certainty that he was going to return, and there couldn't be," says Cohen, who notes that during Cutler's time as White House counsel, his complete break from the firm was reflected in the shortening of the official firm masthead to Wilmer & Pickering. And yet the call of duty, and the opportunities afforded by the White House counsel position, were too great for Cutler to resist.

Long interested in policy and international matters, Cutler was active in shaping the position of White House counsel into his dream job, using as his model—with Carter's endorsement—the mixed legal-policy role played by Clark Clifford, White House counsel to President Truman. The Clark Clifford invoked by Cutler was to become "as much a figure of legend as of history," points out Cohen. As Cutler himself explained in a 2003 interview conducted by the University of Virginia's Miller Center of Public Affairs: "Every time I thought I had been bypassed, or that I had something to contribute but Zbig [National Security Advisor Zbigniew Brzezinski] had screened me out or somebody else had, I would go to the President or I would go to Hamilton [Jordan] and say 'I think that Harry Truman would have had Clark Clifford at this meeting.' Since nobody really remembered and I was the only one who at least knew what was going on in the Truman days, nobody could challenge that. In the end, I really had no trouble."<sup>3</sup>

Thus situated, Cutler was to have a hand in navigating an extraordinary period in United States and world history. In November 1979, an army of 3,000 militants invaded the American embassy in Tehran, taking 66 military personnel and diplomats as hostages. The crisis—which would stretch until Cutler's final day as Carter White House counsel, and was to become the defining issue of the Carter presidency—was precipitated by a request from the deposed Shah, then in exile in Mexico, to come to New York City for cancer treatment. Viewing US cooperation with the Shah as yet another instance of the West's decades-long interference in Iranian affairs, the Ayatollah hailed the militants as heroes, signaling in no uncertain terms that the United States could expect no cooperation from the Iranian government.

Carter's team, with Cutler at its center, set to work putting a stop to all imports of Iranian oil to the United States, and effected a complex plan to freeze all Iranian assets in US and European banks. "I also had the responsibility of dealing with the Shah and getting him to leave New York and go to Texas," Cutler recounted in a White House exit interview conducted in March 1981. "And getting him to go from Texas to Panama, and getting him to go from Panama to Cairo; in fact, I almost felt like Typhoid Mary whenever I showed up and he was about to take a trip someplace."<sup>4</sup>

Meanwhile, a new crisis was brewing. In late December 1979, just as Cutler had succeeded in getting the SALT II Treaty through the Senate Committee on Foreign Relations, the Soviet Union deployed troops to Afghanistan. The reaction in the White House was one of shock, says Cutler. "We had been deceived; they were lying to us."<sup>5</sup> Ratification of SALT II was now an impossibility and,

apprehensive about the implications of the invasion, the administration knew it had to send a strong signal to Moscow and promptly began a grain embargo that was to prove costly to the Soviets.

With the approach of the 1980 Moscow Summer Olympics, the opportunity came to strike at the international prestige of the Soviet Union, and that nation's desired image as a peaceable world power. "Somebody high up—and I don't know if it was the president himself or Lloyd, I've never actually found out—decided we should boycott the Moscow Olympics," recalled then-deputy White House counsel Joseph Onek, speaking at a conference on the White House counsel held by the Miller Center in Cutler's honor in November 2006.<sup>6</sup> The plan was not without its challenges. First, the very independence of the US Olympic Committee meant that there was a real risk that the athletes would simply go off to Moscow in defiance of the administration's wishes. "When you have the prestige of the President involved, just think how ridiculous the United States would have looked . . . if the team then decided to go anyway," Cutler was to comment in 1981.<sup>7</sup> Second, there was the problem of persuading other countries to join the boycott. Cutler, however, was up to the task. "Under Lloyd's leadership," says Onek, "[we] put together a very, very effective team and, to a large extent, a successful boycott."<sup>8</sup>

Through the summer of 1980, and into the fall, the Iranian hostage crisis continued. A risky rescue mission had been attempted in April—against the advice of Cutler, who almost resigned over it—resulting in the deaths of eight commandos and the further erosion of public support. With the Carter-Reagan presidential race in full swing, Carter's political fate was inextricably linked to that of the hostages. Cutler still held out hope that they could pull off an "October surprise" and get the hostages out before the November election. But it was not to be. In September, Iraq invaded Iran, beginning the Iran-Iraq War. "The negotiations blew up when Iraq attacked Iran," Cutler said, speaking to the DC Bar's "Bar Report" in 1997. "The war distracted the Iranians and the public frustration was too much for President Carter to overcome."<sup>9</sup>

With Reagan now President-elect, Carter remained determined that he would deliver the hostages to safety before leaving office, and Cutler was with him every step of the way. At war with Iraq and in need of funds, Iran had finally begun to feel the pressure of the asset freeze initiated by the Carter team in the immediate wake of the embassy invasion. Working through Algerian intermediaries, Carter's team got the Iranians to agree to free the hostages in return for the release of several billion dollars in Iranian gold and bank assets. With 48 hours left until the transfer of power to the new administration, it looked as if Carter might see the hostages set free before his term ran out.

But Carter's bittersweet triumph was to come too late. As the clock ticked down, Carter and Cutler camped out in the Oval Office for two sleepless nights, catnapping on couches in between tense negotiations, as they fielded a nail-biting series of roadblocks that would ultimately delay the hostages' flight to freedom until Reagan's inauguration speech was already underway. On January 20, 1981, 444 days after the hostages had been taken captive, the painstaking efforts of Carter, Cutler and the rest of the White House team had finally resulted in the release of the hostages, but President Reagan was the one to announce that they had been set free.

Carter's missteps and disappointments notwithstanding, Cutler's quiet fame as a counselor, advocate and consummate problem-solver had spread and, 13 years later, he was to be called

back into service as special counsel to the President in the Clinton White House. “Presidents sought his help in dealing with housing supplies, urban violence, hostage negotiations, election machinery, judicial and civil service salaries, and American intelligence capabilities,” Cohen noted in a moving address delivered at the Miller Center conference held a year after Cutler’s death. “Lloyd wasn’t the country’s leading expert on any of these subjects, just the guy a president most wanted to talk to when he really needed the right answer.”<sup>10</sup>

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<sup>1</sup> The firm was a general partnership known as Wilmer, Cutler & Pickering until December 23, 2003, when it became Wilmer Cutler Pickering LLP.

<sup>2</sup> Oral history interview conducted February 22, February 24, March 4, 2005, by William H. Becker (Business History Group, Inc. & The George Washington University) and William M. McClenahan, Jr. (Business History Group, Inc. & University of Maryland), 32-33.

<sup>3</sup> Miller Center of Public Affairs Presidential Oral History Program, Lloyd Cutler Biographical Oral History Project, Final Edited Transcript, Interview with Lloyd Cutler, July 10, 2003, 15.  
[http://web1.millercenter.org/poh/transcripts/ohp\\_2003\\_0710\\_cutler.pdf](http://web1.millercenter.org/poh/transcripts/ohp_2003_0710_cutler.pdf)

<sup>4</sup> Lloyd Cutler Exit Interview, March 2, 1981, 12.  
<http://www.jimmycarterlibrary.org/library/exitInt/Cutler.pdf>

<sup>5</sup> Miller Center Transcript, 14.

<sup>6</sup> Proceedings of the Lloyd N. Cutler Conference on the White House Counsel, Miller Center of Public Affairs, Charlottesville VA, 2006, 64.

<sup>7</sup> Lloyd Cutler Exit Interview, 8.

<sup>8</sup> Proceedings of the Lloyd N. Cutler Conference on the White House Counsel, 65.

<sup>9</sup> [http://www.dcbarr.org/for\\_lawyers/resources/legends\\_in\\_the\\_law/cutler.cfm](http://www.dcbarr.org/for_lawyers/resources/legends_in_the_law/cutler.cfm)

<sup>10</sup> Proceedings of the Lloyd N. Cutler Conference on the White House Counsel, 55.