

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. Jenkins

DATE: 6-17-74

FROM : J. J. McDermott

SUBJECT: S. 2543; H. R. 12471;  
FREEDOM OF INFORMATION ACT LEGISLATION

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Admin.	_____
Comp. Syst.	_____
Ident.	_____
Intell.	_____
Lab.	_____
Plan. & Eval.	_____
Spec. Inv.	_____
Training	_____
Legal Coun.	_____
Telephone Rm.	_____
Director Sec'y	_____

*Burdick*

Reference my memorandum of 6-7-74 which reported that Vince Rakestraw, Assistant Attorney General, Office of Legislative Affairs, had indicated he would recommend a strong letter from the Attorney General to each of the conferees who will consider captioned bill opposing the Hart amendment which greatly lessens the effect of the exemption covering the investigatory files in the Freedom of Information Act. Rakestraw also indicated he would want to accompany FBI representatives in discussing this legislation with conferees and their staff representatives.

Last week the conferees on this legislation were named and they are as follows. House conferees are: Chet Holifield (D-Calif.), William S. Moorhead (D-Pa.), John E. Moss (D-Calif.), Bill Alexander (D-Ark.), Frank Horton (R-N.Y.), John N. Erlenborn (R-Ill.), and Paul N. McCloskey, Jr., (R-Calif.). Senate conferees are: Edward M. Kennedy (D-Mass.), Philip A. Hart (D-Mich.), Birch Bayh (D-Ind.), Quentin N. Burdick (D-N.D.), John V. Tunney (D-Calif.), John L. McClellan (D-Ark.), Strom Thurmond (R-S.C.), Roman L. Hruska (R-Nebr.), Edward J. Gurney (R-Fla.), and Charles McC. Mathias, Jr., (R-Md.).

It should be noted the majority of these conferees are known to be committed to strong expansion of the coverage of the Freedom of Information Act; hence, there is little likelihood any lessening of our problems created by the Hart amendment can be expected from the conferees.

SI-105 62-81830-255

Last week, both Tom Susman, Counsel on the Administrative Practice and Procedure Subcommittee, chaired by Senator Kennedy, and Burt Wides, Staff Counsel to Senator Hart, called Inspector Bowers and asked to meet with FBI representatives to discuss problems caused by the Hart amendment and possible solutions to these problems. It was suggested to Susman that he set up a meeting with representatives of various Senate conferees interested in this matter so we could discuss the problems with all of them at one time. He said he would arrange such a meeting for Friday, 6-14-74. Rakestraw indicated he would attend this session and arrangements were made to have Special Agent James Farrington, Chief of the Freedom of Information Unit, Office of Legal Counsel, also participate.

20 JJC Mr. Callahan  
1 - Mr. Mintz  
DWB:kjs (8)

1 - Mr. McDermott  
1 - Mr. Farrington

1 - Mr. Bowers  
*Ch. Bowers*

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On 6-13-74 Carolyn Havel, Office of Legislative Affairs, advised Bowers she had received word from the Office of Legislative Affairs at the White House that they want no changes made in this legislation since they want it to remain as bad as possible to make their case stronger for sustaining a certain veto. She said the White House representatives indicated that they want no efforts made to lessen the impact of this legislation on any branches of Government. She stated she had not informed Rakestraw of this message from the White House as yet since he was out of the office. Rakestraw was contacted later in the day and informed that we felt it would be very unwise if not impossible to refuse to talk to Senate staff personnel who had requested us to do so concerning this legislation. He agreed and subsequently advised he had informed the White House that the Department and the FBI would continue to discuss this legislation with anyone who requested us to do so. He stated, however, that as it now stands the Attorney General would send no letter to the conferees pointing out that it is quite apparent the membership of the conferees is "loaded" and chances of effecting any change in the Hart amendment are virtually nil.

On the morning of 6-14-74 Bowers, Farrington, and Rakestraw met with the following Senate staff personnel for over an hour: Neil Levy, Legislative Assistant to Senator Tunney; Howard Paster, Editorial Director, Subcommittee on Constitutional Amendments, Senate Judiciary Committee (Senator Bayh); Michael J. Mullen, Deputy Counsel, Subcommittee on Improvement of Judicial Machinery, Senate Judiciary Committee (Senator Quentin Burdick); D.C. William J. Weller, Research Director, Subcommittee on Improvement in Judicial Machinery, Senate Judiciary Committee (Senator Burdick); William P. Westphal, Chief Counsel, Subcommittee on Improvement in Judiciary Machinery, Senate Judiciary Committee (Senator Burdick); Doug Marvin, Legislative Assistant to Senator Roman Hruska; Burt Wides, Staff Counsel to Senator Philip Hart; Harrison Wellford, Legislative Assistant to Senator Philip Hart; Jim Hinish, Legislative Assistant to Senator Edward J. Gurney; Paul Summitt, Chief Counsel, Subcommittee on Criminal Laws and Procedures, Senate Judiciary Committee (Senator John L. McClellan); Ann Phillippi, Research Assistant, Subcommittee on Administrative Practice and Procedure, Senate Judiciary Committee (Senator Kennedy); and D.C. Tom Susman, Assistant Counsel, Subcommittee on Administrative Practice and Procedure, Senate Judiciary Committee (Senator Kennedy).

After discussing in some detail some of the problems this amendment would create, Susman and Wellford, who were primary spokesmen for the staffers, indicated they appreciate our position and now understand some of our difficulties. They said they see no possibility of conferees changing the Hart amendment since

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discussions with House representatives indicate the House conferees also favor this amendment. Susman and Wellford stated they would incorporate into the conference report specific language to indicate the Hart amendment should be interpreted very narrowly with respect to investigatory files of agencies such as the FBI, Secret Service, and the like. They said this language would point out the main thrust is still to restrict regulatory agencies from using the investigatory file exemption to withhold information in their files.

Following this meeting, Rakestraw advised he has been assured by the White House this bill will be vetoed. He suggested it would be a waste of effort at this stage to make further contacts with conferees or their staff members. He said the Department will spearhead an all out effort to sustain the veto. He feels there is likelihood the veto will be overridden in the House but can be sustained in the Senate where there were 33 votes, only one short of the number necessary to sustain a veto, cast against the Hart amendment. It is apparent the White House is relying strongly on the opposition to the Hart amendment for its major base of strength in upholding the veto.

RECOMMENDATION:

For information.

TJS  
HWS

DWB

mmc