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May 1, 1974

MEMORANDUM FOR WILLIAM TIMMONS

Subject: S. 2543 - To Amend the Freedom of  
Information Act

The attached copy of a memo I received from Justice is self-explanatory. It indicates that further action on this pending bill, to which everyone in the Administration to my knowledge objects strongly, would be desirable.

In an executive session today, the Senate Judiciary Committee resolved that S. 2543 would be the pending business when they meet next week. I will be glad to help all I can in whatever additional actions you think might be appropriate.

Should we get together on this some time soon?

((Signed)) Stanley Ebner  
Stanley Ebner  
General Counsel

Attachment

cc:

Geoff Shepard

Director

Deputy Director

Mr. Marik

Mr. Rommel

Mr. Eberle

General Counsel

GC Chron

DO:GC:SEbner:sc

*Malcolm Hawk, Justice*

*Mr. Scott*





*Memorandum*

TO : W. Vincent Rakestraw  
Assistant Attorney General  
Office of Legislative Affairs

DATE: April 29, 1974

FROM : Malcolm D. Hawk  
Deputy Assistant Attorney General, OLA

SUBJECT: Freedom of Information Act Amendments, S. 2543

PROGRESS TOWARD AGREEMENT

To date I have had three meetings with Tom Susman of Senator Kennedy's staff, attempting to resolve our differences on S. 2543. Doug Marvin from Senator Hruska's office has also participated.

We have discussed 10 separate issues and have resolved five to our mutual satisfaction (a. authorization, payment of attorneys fees, user charges, publication of indexes, and annual reports to Congress). We have agreed that two issues cannot be resolved between us (b. sanctions for employees and use of "record" in the seventh exemption). Three issues remain unresolved (c. in camera inspection, administrative time limits, and time to answer complaint). We will meet again this week on these.

While we are pleased with the agreement reached on half of the matters discussed, these are the five least important.

ADDITIONAL ACTIONS

Even if agreement is reached on the outstanding issues, Justice would not be prepared to support the legislation without some modification of the two areas on which compromise is impossible (b. above). Therefore, we must lay the groundwork for action favorable to our position by the full Judiciary Committee. I suggest:

1. Justice talk with Senators Eastland, McClellan and Hruska. Perhaps we should also see Scott, Cook, Mathias and Gurney.



2. Several agencies, notably CIA and Defense, have already talked to several Senators with whom they have close rapport (Hruska, McClellan, Thurmond, Fong). These efforts should continue and be expanded. In addition, perhaps Post Office could speak to Burdick and Fong, Commerce to Cook, Agriculture to Eastland, State to Scott (Pa.), and Defense to Byrd (W.Va.).

3. The White House and OMB should be encouraged to talk to those Senators with whom they maintain cordial relations to express the great concern of the entire Executive Branch (Eastland, McClellan, Byrd (?), Hruska, Fong, Scott, Thurmond, Cook, Mathias (?) and Gurney (?)).

4. I suggest a first name letter from the Attorney General to all the members of the Committee setting forth concisely (one page) our objections to three or four basic provisions of the bill and our reasons for believing they will adversely affect the administration of the Act.

5. The FBI should continue to press its arguments against any change in the 7th Amendment wherever it feels appropriate.

*Amendment*  
The Justice Department will work with Senator Hruska to see that the necessary amendments are proposed at the full Committee executive session (now tentatively set for May 8). However, it would be extremely useful if other Senators could be prepared to assist Hruska with the debate, preferably by proposing some of the amendments. This would increase the feeling of broad-based concern over some of the provisions.

Finally, there has been some suggestion that we try to defeat the entire bill in Committee. I do not think this is wise. The House bill (H.R. 12471) is in some ways more objectionable than the Senate bill and it has been held at the desk in the Senate. If the Judiciary Committee fails to report some version of S. 2543, Kennedy and Mansfield will probably call up H.R. 12471. I recall the adage "you can't beat something with nothing" and suggest that we would have a very difficult time amending H.R. 12471 on the floor. H.R. 12471 might also not go to conference, whereas the chances are greater for one if a different Senate bill is approved. And a conference headed by Eastland and Hruska might be very desirable.