



THE GENERAL COUNSEL OF THE TREASURY

WASHINGTON, D.C. 20220

JUN 23 1966

Sir:

Your office has asked for the views of this Department on the enrolled enactment of S. 1160, "To amend section 3 of the Administrative Procedure Act, chapter 324 of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes."

The enrolled enactment would revise section 3 of the Administrative Procedure Act to remove the authority to withhold information from publication or public disclosure on good cause found in the public interest, to substitute a requirement of full disclosure of all information not covered by specific exemptions, with court review of nondisclosure, and to require indexing of large quantities of administrative matter.

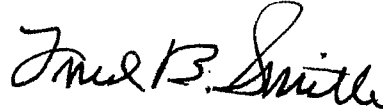
This Department has opposed this legislation before the appropriate Committees of Congress on the ground that it would prevent the Executive from enforcing the laws responsibly and would multiply the cost to the taxpayers. This legislation is undesirable in our view as it invites demands for all sorts and kinds of documents, requiring a large expenditure of time and money to satisfy. It permits litigation in any Federal District Court where a complainant resides or works whenever an administrator determines that one or more of the specific exemptions precludes disclosure. In couching some of the exemptions in terms of evidentiary privileges, the bill encourages such litigation and leaves indefinitely open the scope of the exemptions. In any case, the exemptions do not clearly cover the Department's sensitive investigatory and financial operations. Without any clear justification for the cost involved, an indefinite mass of administrative matter will need to be indexed.

However, the proposal was amended to meet a number of our more serious specific criticisms, and some essential protection and clarification may be expected from the Executive Order under exemption (1) and from guidelines provided by the Attorney General. We doubt that further amendment could be obtained until experience

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demonstrates the need. Furthermore, we believe that this legislation does not modify the constitutional right of the President to withhold information in the public interest. Consequently, the Department would interpose no objection to a recommendation that the enrolled enactment be approved by the President.

Sincerely yours,

A handwritten signature in cursive script that reads "Fred B. Smith". The signature is written in dark ink and is positioned below the typed name.

Fred B. Smith  
General Counsel

The Director

Bureau of the Budget