



CIVIL AERONAUTICS BOARD

WASHINGTON, D. C. 20428

IN REPLY REFER TO: B-1-38A

JUN 22 1966

Mr. Wilfred H. Rommel
Assistant Director
For Legislative Reference
Bureau of the Budget
Washington, D. C. 20503

Dear Mr. Rommel:

This is in reply to your communication of June 21, 1966 requesting the Board's views on S. 1160, an enrolled bill "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."

In reporting on legislation which led to the enrolled bill (H.R. 5012, 89th Congress and S. 1666, 88th Congress), the Board stated that it was opposed to those provisions which would require the disclosure of internal governmental materials containing staff views and recommendations. This opposition was based primarily on the fact that the disclosure of materials of this nature tends to destroy candor in presentation, and thus impedes the discharge of the Board's responsibilities in certain areas. The Board also objected to opening up investigatory files such as those involved in aircraft accident investigations as being contrary to the public interest and an impediment to the work of the Board.

The scope of the provisions in the enrolled bill exempting materials from disclosure are somewhat broader than those of the earlier bills. In this connection, the House Committee on Government Operations states in the report accompanying the bill (H. Rep. No. 1497, 89th Cong., 2d Sess.) that documents or information received or generated by a Government agency prior to completion of the process of awarding a contract or issuing an order,

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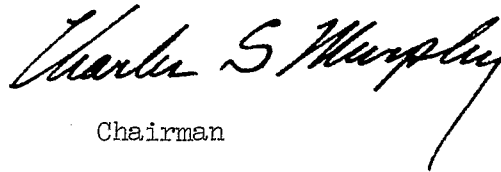
Mr. Wilfred H. Rommel (2)

decision or regulation are intended to be exempt from disclosure. The Committee also states that private parties are not intended to be given indirectly any earlier or greater access to investigatory files than they would have directly in Government litigation or adjudicative proceedings.

The Board does not know, of course, how the exemption provisions will be interpreted by the courts. However, if they are construed so as to recognize a public policy privilege for internal communications, the difficulties which the Board had with the earlier provisions would be obviated to a great extent.

In these circumstances, the Board recommends approval by the President of the enrolled bill.

Sincerely yours,


Chairman

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