

Jim-I did not have a copy of the Senate Judiciary Committee report on H.R.9545, the bill to preserve the WC evidence. While it purports to say only what the later Calrk executive order does, in my view it says much more of legal significance. I will not now go into what I see in it, but I have makred this copy and am filing it with the executive order. I believe it puts me in a position, at the right time and under the right circumstances (translation - as I see each) to file suit not only under FOI but under other law I am sure exists, based on what I see in this language. In the future, when we both do not have other things on our minds, we can discuss this. So far as I am concerned there will be no rush. Thanks, HW 2/23/73

Calendar No. 836

89TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 851

PRESERVING EVIDENCE PERTAINING TO THE ASSASSINATION OF PRESIDENT KENNEDY

OCTOBER 4 (legislative day, OCTOBER 1), 1965.—Ordered to be printed

Mr. DIRKSEN (for Mr. EASTLAND), from the Committee on the
Judiciary, submitted the following

REPORT

[To accompany H.R. 9545]

The Committee on the Judiciary, to which was referred the bill (H.R. 9545) providing for the acquisition and preservation by the United States of certain items of evidence pertaining to the assassination of President John F. Kennedy, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to authorize the acquisition and preservation by the United States of certain items of evidence pertaining to the assassination of President John F. Kennedy.

ANALYSIS OF THE BILL

H.R. 9545 would authorize the Attorney General to designate, by publication in the Federal Register, which items considered by the President's Commission on the Assassination of President Kennedy are required by the national interest to be acquired and preserved by the United States (secs. 1 and 2(a)). All right, title, and interest to these items would vest in the United States upon publication of the Attorney General's determination in the Federal Register (sec. 2(b)). Authority to effect such acquisition would expire 1 year after the date of enactment of this legislation (sec. 2(c)).

Under the bill, claims for just compensation must be filed within 1 year of the date of publication of the Attorney General's designation. The bill grants concurrent jurisdiction to the Court of Claims

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and the U.S. district courts over claims for just compensation hereunder and provides that a claimant filing in the Federal district court may request a trial by jury (sec. 3).

All items acquired pursuant to the bill are to be placed under the jurisdiction of the Administrator of General Services and preserved in accordance with rules and regulations which he may prescribe (sec. 4).

The bill provides that all items acquired by the United States hereunder shall be deemed personal property within the meaning of provisions penalizing removal or mutilation and theft, sections 2071 and 2112, title 18, United States Code (sec. 5). The bill authorizes such appropriation as may be necessary to carry out the purposes of the act (sec. 6).

STATEMENT

In the course of its investigation of the assassination of President John F. Kennedy, the President's Commission on the Assassination acquired a large number of items of physical evidence pertaining to the assassination and related events. The most important of these belonged to Lee Harvey Oswald and his wife. The Commission recommended that a substantial number of these items of evidence, particularly those relating to the actual assassination of the President and the murder of Patrolman J. D. Tippit, should remain in the possession of the Government. In furtherance of this objective, the Attorney General requested the introduction of the present measure.

These items include the assassination weapon, the revolver involved in the murder of Officer Tippit, among many other exhibits. The working papers, investigation reports, and transcripts of the Commission have been transmitted to the National Archives. The items of physical evidence are being retained in the custody of the Federal Bureau of Investigation.

The committee is persuaded that the national interest requires that the Attorney General shall be in a position to determine that any of these critical exhibits, which were considered by the President's Commission, shall be permanently retained by the United States. The committee concurs in the view expressed by the Attorney General that in years ahead allegations and theories concerning President Kennedy's assassination may abound. To eliminate questions and doubts the physical evidence should be securely preserved. A failure to do so could lead to loss, destruction, or alteration of vital evidence and in time might serve to encourage irresponsible rumors undermining public confidence in the work of the President's Commission.

The authority conferred by this legislation authorizing the acquisition and preservation of certain items of evidence considered by the President's Commission is vital in the national interest. One private party has already filed suit against the Attorney General of the United States for possession of the assassination weapon and the .38 caliber revolver involved in the death of Police Officer Tippit, claiming to have purchased all right, title, and interest in these items from Mrs. Marina N. Oswald. The Government has not yet responded to the complaint. The effect of this legislation would be to deny the plaintiff possession of these items but would afford due process of law by providing a procedure for recovering just compensation by permitting the claimant his day in court to litigate his asserted rights.

PRESERVE EVIDENCE—AS

The committee believes that and in the public interest, consideration of H.R. 9545, Attached hereto and ma Attorney General of the Un

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THE VICE PRESIDENT,
U.S. Senate, Washington, D.

DEAR MR. VICE PRESIDENT
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The committee believes that the need for this legislation is manifest and in the public interest, and accordingly, recommends favorable consideration of H.R. 9545, without amendment.

Attached hereto and made a part hereof is the letter from the Attorney General of the United States.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., June 17, 1965.

THE VICE PRESIDENT,
U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal providing for the acquisition and preservation by the United States of certain items of evidence pertaining to the assassination of President John F. Kennedy.

In its investigation of the assassination of President Kennedy, the Commission appointed by President Johnson examined numerous items of physical evidence which were used to form the basis for its report. These items included the assassination weapon, the revolver involved in the murder of Patrolman J. D. Tippit, and many other exhibits. This evidence and the investigative reports, transcripts, and other working papers of the Commission, have been officially transmitted to the National Archives by the Commission. Pending final decision as to the disposition to be made of these exhibits, the physical evidence has been retained in the custody of the Federal Bureau of Investigation.

Prior to the completion of its work, the Commission requested that this Department take the necessary steps to provide for the retention of the essential items of physical evidence in the possession of the U.S. Government for an indefinite period of time. After full consideration of the alternatives, I am persuaded that the national interest requires legislation which will provide a valid legal basis for the permanent retention of these critical exhibits.

In the first place, I think it is important to recognize that in the years ahead allegations and theories regarding the assassination of President Kennedy may continue to abound. This has certainly been the case abroad and, to some degree within the United States, since the publication of the Commission's report, despite the impressive documentation and presentation of the Commission's conclusions. To a considerable extent, such allegations and theories feed on secrecy and uncertainty, as is demonstrated, I believe, by the historical literature during the past 100 years relating to the assassination of President Lincoln. We should securely preserve the physical evidence to eliminate questions and doubts. In my judgment, a failure to retain the critical physical exhibits and the resultant possibility of their loss, destruction, or alteration will serve to encourage irresponsible rumors and allegations designed to destroy the widespread public confidence in the work and conclusions of the President's Commission.

Furthermore, retention of these items would permit an accurate and complete reassessment of the conclusions of the President's Commission if at any time in the future this was considered desirable. Many of the items, such as the weapons, cartridges, and various documents, were the subject of testimony before the Commission,

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during the course of which expert and other witnesses testified about their vital characteristics, ownership, use, and relationship to the assassination.

For these reasons, I am submitting the enclosed measure which would establish a procedure under which selected items of evidence could be retained and protected from dispersal and exploitation. The proposed legislation would authorize the Attorney General to determine which of the items considered by the President's Commission are required by the national interest to be acquired and preserved by the United States. When the Attorney General makes a determination that an item should be acquired, all right and title to it would be vested in the United States upon the filing of his determination with the Office of the Federal Register for publication in the Federal Register. The Attorney General's acquisition authority would expire 1 year after the enactment of the proposed legislation, and title to only those items described in determinations filed with the Office of the Federal Register within such 1-year period would vest in the United States. The Court of Claims would be granted exclusive jurisdiction over claims for just compensation for any item acquired by the United States pursuant to the procedure proposed in the legislation.

In order to meet the requirements of the national interest as indicated, I urge the early and favorable consideration of the enclosed proposal.

The Bureau of the Budget has advised that there is no objection to the submission of this legislation from the standpoint of the administration's program.

Sincerely,

NICHOLAS DEB. KATZENBACH,
Attorney General.

89TH CONGRESS }
1st Session }

MARY A

OCTOBER 4 (legislative day,

Mr. DIRKSEN (for Mr. E
Judiciary, :

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