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OLC RECORD COPY

Elec Surveillance

OLC 78-1929/7

27 September 1978

MEMORANDUM FOR THE RECORD

FROM [redacted] 25X1

Assistant Legislative Counsel

SUBJECT: H.R. 7308 and Section 1566, Electronic Surveillance Legislation Conference

1. On 26 September 1978, the undersigned was present in the House gallery to monitor House floor action with regard to subject legislation and conference. We had been informed that upon motion by Representative Boland, HPSCI Chairman, on the House floor that House conferees be appointed and that the bills be referred to conference that opponents of the legislation - namely Representatives McClory, Exchardt, and Ertel - would introduce a motion to instruct House conferees to remain firm with regard to the stricken special court provision -- the so-called Ertel amendment.

2. Prior to Chairman Boland's motion for conference on the bills, there was every indication that the motion to instruct would be introduced and hotly contested by proponents of the bill. Both proponents and opponents of the legislation had gathered their respective troops on the floor and were seated at the tables on the floor reserved for floor managers. Each side had counsel present (Mike O'Neil and Bernie Raimo for the HPSCI and Ira Shapiro for the McClory and Ertel side) -- all players were prepared, or so it appeared, to carry out prearranged assignments.

3. Mr. Boland rose, made his motion for conference, and awaited the motion to instruct. None of the opponents of the legislation rose to introduce the motion to instruct - much to the surprise of all present. The motion for conference was accepted and Speaker O'Neil named the following conferees: Representatives Boland, Murphy, Mazzoli, Rodino, Kastenmeier, McClory, and Bob Wilson - still no motion to instruct. Then, in addition to the House conferees listed above, Speaker O'Neil indicated that Representative Ertel would be named a "limited conferee" for purposes of addressing the special court provision at conference. It was at this point that it became apparent

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that opponents of the legislation had made a tactical decision to save their ammunition for conference.

4. Shortly after the motion for conference was accepted on the House floor, I spoke with Bernie Raimo, HPSCI Subcommittee on Legislation Counsel, and he indicated just as much surprise at what had just transpired on the floor and agreed that the special court provision would be fought out at conference. Shortly thereafter Ira Shapiro joined us and disclaimed all knowledge - [redacted] - of any motion to instruct. STAT

5. After returning to the office and later on in the day, I called HPSCI staff and was informed that conference has been set for Thursday, 28 September at 5 p.m. HPSCI has reserved a place for myself and [redacted], Assistant General Counsel at Thursday's conference. 25X1

[redacted]

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