

MEMORANDUM

TO: Senator
FROM: Kevin
DATE: January 11, 1980
RE: C.Q. Interview
COPIES: Mary, Linda, Tom, Eve, David B., Press, Bob, Ann M., Leg. (2),
Indiana Dept.

As you know, you are scheduled to give a short telephone interview to Nadine Cohodas of Congressional Quarterly about the Judiciary Committee. She may be looking for an angle to the story centering around Kennedy's "leadership" capabilities and the criticism he received for his handling of the Criminal Code arrangements concerning the votes in full Committee on balanced budget and the death penalty.

I would guess that you would not want to get involved in this topic, but if it does come up you may want to point out that Kennedy did consult you on the balanced budget question because it was in your Subcommittee at the time but you were never part of any quid pro quo linking a vote on the criminal code to full Committee consideration of the Balanced Budget Amendment. Moreover, as far as you know there was never any formal agreement, but only an understanding that the Committee would handle the matter in the regular course of business.

In some other areas:

Bayh Record in Committee

You have had more major pieces of legislation which you authored voted out of the Committee than any other member this year, including the Chairman. Among them are:

- Civil Rights of the Institutionalized. This gives Attorney General standing to sue state institutions which are engaged in flagrant violations of constitutional rights.
- Contribution Amendment. This, for the first time, requires that damages in antitrust cases be fairly apportioned among the defendants rather than leaving the small businesses which are not the main culprits holding the bag.
- Bottling Bill. Preserves the legality of territorial franchise agreements in the bottling industry and thus will keep small and moderate sized bottlers in business.
- University and Small Business Patent Procedures Act. This would increase innovation and productivity by allowing Universities and small businesses to retain control of discoveries produced through government grants. These innovations therefore would be put to productive use rather than simply retained by the government.

-- Civil Rights Commission Reauthorization.

In addition to your own bills you also have been instrumental in getting several major bills reported which you supported and cosponsored. Among these are Illinois Brick, oil merger, Equal Access to Justice Act (attorneys fees for small business wrongfully sued by federal government), Speedy Trial Act and Criminal Code which retained all of your amendments from last year plus your new Solicitation Amendment.

Kennedy Leadership

As mentioned before, there may be questions about Kennedy's leadership of the Committee especially in light of his charges against Carter. There has also been some press comment that he has not done very much in terms of his own legislation in the Committee. He barely got Illinois Brick out and was forced to pay a heavy price for the Criminal Code.

You may, however, want to point out that the Code represents a considerable investment of time and requires an ability to unite the differing factions in the Committee around a very lengthy, complex and controversial piece of legislation. Kennedy also was instrumental in working out Civiletti's problems with the Hispanic groups and getting him confirmed. Moreover, he has been helpful in processing other Senator's bills including S. 10 and the patent bill.

House Judiciary Committee

Fred mentioned that there may be some questions about the House Committee in relation to the Senate Committee. The House has not been particularly active this year, although they did get H.R. 10 passed some time ago. They have been holding endless hearings on the Criminal Code and may have to devote more time to the Balanced Budget Amendment this year.

Any comparison of leadership between Rodino and Kennedy would not be particularly valid, however, because of the different sizes of the bodies, the different procedures in the Committee and the difference in traditions. It would be somewhat similar to comparing Byrd's job to O'Neill's.