

I am sure that you have gone to a tremendous amount of work, or your Department has, in preparing the statement and getting this information from the other agencies, and it is very helpful to us.

We are certainly grateful to you for your cooperation. We appreciate it very much.

Mr. Fensterwald, do you have any questions?

Mr. FENSTERWALD. I had one or two questions, Senator, but I would just like to say to Mr. Staats that I think both he and his colleagues, Mr. Seidman and Miss Guffey, are being unusually modest about their role in the preparation of the bill.

I know that they have all worked very hard on it and speeded up the process—much more than you would normally think possible—to get this bill up in time, so we could have these hearings. And I know that all the members of the committee are very grateful to all three of them for their cooperation in the past.

Mr. STAATS. Thank you very much.

Mr. FENSTERWALD. I had one question, Mr. Staats, with respect to section 3(a) and, in particular, to a statement that you made on page 10 of your prepared remarks.

You say these exclusions incorporated in S. 1664 are based on the exclusions which Congress incorporated in sections 4 and 5 of the Administrative Procedure Act for reasons which we believe are generally understood.

I think I know what you mean there, but, for the sake of the record of these hearings, I wondered if you could just briefly set forth what you think those reasons are.

Mr. STAATS. Mr. Fensterwald, the effort that we have made here was to try to bring the definitions in S. 1664 as closely as we could into line with the coverage set forth in sections 4 and 5 of the Administrative Procedure Act.

We have excluded various specific functions from the scope of the act. Miss Guffey and Mr. Seidman can comment in more detail on this, but I believe that it is our feeling that we make better progress here if we try to follow the coverage set forth in that act with request to rulemaking and adjudicatory functions.

Would you like to comment further on this, Miss Guffey?

Miss GUFFEY. The reasons for the exceptions to section 4 and section 5 are explained in the Attorney General's manual on the Administrative Procedure Act and in the reports of congressional committees on the bill which became the act. It is pointed out, for example, that there are certain proprietary functions of the Government; that these do not primarily involve substantive rulemaking or adjudication affecting private rights, privileges, or obligations; and that the intent of the Administrative Procedure Act was to get at those administrative processes which affect private persons in the conduct of their private business.

Therefore the exclusions from section 4 are based on that kind of a concept.

The exclusions in section 5 are more directly related to procedures. The one which excludes matters subject to de novo review on law and facts in the court is based on the idea that there is already in existence a method for the private citizen to have a fair trial-type hearing, and therefore the formal process prescribed in the Administrative Procedure Act is not necessary in order to safeguard his interests.