

state that it is intended that internal memorandums would include the litigation files?

Mr. SCHLEI. Yes, sir; we will.

Mr. KASS. Could you supply that for the record?

Mr. SCHLEI. I think that is going to be a fairly lengthy process, but I will move along as fast as we can. That is going to require some study; I think, substantial study.

(The material referred to follows:)

(Every agency shall make promptly available to any member of the public, in accordance with published rules stating the time, place, and procedure to be followed, records in its possession) * * * "except * * * litigation and administrative adjudication files, including communications and records concerning negotiations for settlement or other efforts to avoid formal proceedings."

Mr. KASS. Mr. Schlei, what is your interpretation of exemption No. 2? What information would fall under those records relating solely to the internal personnel rules and practices of an agency? How does your agency interpret that?

Mr. SCHLEI. Well, we were inclined to be critical of that exception because it did not seem to us actually that the personnel rules and practices of an agency, many of them, ought to be exempt. They ought to be public. How you handle various personnel problems and where somebody goes to complain if he is treated wrongly by his superior, and so on. All those things I would suppose should be public. They should be published somewhere. They should be up on a bulletin board.

And there are some personnel rules and practices that ought to be exempt, and I think that—let's see——

Mr. KASS. It is No. 2.

Mr. SCHLEI. And so that exception, it seemed to us, protected from disclosure things that did not need protection, as well as perhaps not going far enough as to some aspects of information that the Government gets about its employees.

Mr. KASS. Where an individual is, let's assume, fired from the agency—for cause we hope—would the facts and circumstances surrounding this discharge fall within the personnel practices of an agency as you read it?

Mr. SCHLEI. I should not think so, although you are talking here about records that are related to the "practices" of an agency, and conceivably a record, although it contained only a summary of some facts, say, might be related to the "practices, personnel practices," of the agency, part of a file, part of a series of documents.

I am just talking off the top of my head about that problem, but I would say that you could get a situation where a factual statement or document came within that exception.

Mr. KASS. We are all talking, as you say, off the top of our heads. We are trying to create legislative history to determine what we intend.

Mr. Moss. What this was intended to cover was instances such as the manuals of procedure that are handed to an examiner—a bank examiner, or a savings and loan examiner, or the guidelines given to an FBI agent.

Mr. SCHLEI. Ah! Then the word "personnel" should be stricken. Because "personnel" I think connoted certainly to use the employee