

relations, employee management rules and practices of an agency. What you meant was material related solely to the internal rules and practices of any agency for the guidance of its employees—something like that.

I do agree that there should be protection for the instructions given to FBI agents and bank examiners; people who, if they are going to operate in expectable ways, cannot do their jobs. Their instructions have to be withheld.

But I think that word "personnel" does not do the job well enough, Mr. Chairman. I am sure it can be done.

Mr. Moss. We will hope to seek a way of doing the job without exempting internal rules and practices.

Mr. SCHLEI. I suppose that could cover quite a lot of ground, Mr. Chairman.

Mr. Moss. Because I am afraid that we would there open the barn door to everything.

Mr. SCHLEI. Well, it is one of those things, Mr. Chairman, that just shows how hard it is to cover the whole Government with a few words. There are a number of problems.

Mr. Moss. Oh, we recognize the difficulty and the complexity, but we are perfectly willing to work at it.

Mr. SCHLEI. All right, sir.

Mr. KASS. Mr. Schlei, how would H.R. 5012, if enacted, affect the so-called Trade Secrets Act, 18 U.S.C. 1905?

Mr. SCHLEI. May I submit a statement in answer to that?

Mr. KASS. Please do. The question is whether this would, in effect, repeal the Trade Secrets Act, which I do not believe is the intention of the chairman.

(The material referred to follows:)

Since the section imposes criminal sanctions upon officers and employees of the United States who divulge certain kinds of information coming to them in the course of their employment "in any manner or to any extent not authorized by law," the scope of the section would be reduced to the extent that H.R. 5012, as enacted, would require the disclosure of such information. The application of the proscription of 18 U.S.C. 1905 is determined by the authority granted by other statutes. H.R. 5012, if enacted, would be one such other statute. Presumably, its requirement that all official information, save that within the stated exceptions, be disclosed would constitute authority to disclose, within the meaning of 18 U.S.C. 1905.

Mr. Schlei, in 1946 Congress passed the Administrative Procedure Act and incorporated therein section 3, the so-called public information section. In the 19-year history of that act, and taking in consideration the legislative history of section 3, do you feel that section 3 has really operated as a public information section making information available to all within certain reasons?

Mr. SCHLEI. Well, I know it has been suggested that the section has not operated as a public information section but as a restriction of public information section. And it certainly has provided the guidelines along which the controversy has raged as to whether information should be available or not.

I do not need to be persuaded that there have been abuses of that section and there have been things that have occurred that are unfortunate and regrettable, and this committee has brought many of those to light, and constructively so.