

from making their testimony available in particular cases. (See also *New Britain Machine Co.*, 105 NLRB 646.)

For all of these reasons, the Service has always classified case records "confidential," and it believes that by doing so it meets the standard of present section 3(c) of the Administrative Procedure Act, "for good cause shown."

Our classification is contained in section 1401.2 and 1401.3 of the Service's Regulations (29 CFR, ch. XII, pt. 1401).

Section 1401.2 states the "good cause" upon which the Service has relied in classifying its case records and reports.

Public policy and the successful effectuation of the Federal Mediation and Conciliation Service's mission require that commissioners and employees maintain a reputation for impartiality and integrity. Labor and management or other interested parties participating in mediation efforts must have the assurance and confidence that information disclosed to commissioners and other employees of the Service will not subsequently be divulged, voluntarily or because of compulsion.

Mr. MONAGAN. Where is that citation?

Mr. HERRICK. This is on page 8 of the statement, sir.

Mr. MONAGAN. Thank you, page 8.

Mr. HERRICK. Section 1401.3 describes the records which are subject to the "confidential" classification:

All files, reports, letters, memorandums, minutes, documents or other papers (hereinafter referred to as "confidential records") in the official custody of the Service or any of its employees, relating to or acquired in its or their official activities under title II of the Labor-Management Relations Act, 1947, as amended, are hereby declared to be confidential. No such confidential records shall be disclosed to any unauthorized person, to be taken, or withdrawn, copied or removed from the custody of the Service or its employees by any person, or by any agent or representative of such person without the prior consent of the Director.

We feel that labor and management and other interested parties must be assured that information which is given to Commissioners and other employees of the Service will not be disclosed, and the regulation goes on to classify the files, reports, letters, memorandums, et cetera, which are basically our case files.

The Service does not classify all of the disputes information which it receives. Section 8(b)(3) of the Taft-Hartley Act requires the parties to collective bargaining agreements to file dispute notices with the Federal Mediation and Conciliation Service, and with comparable State agencies, not less than 30 days before the modification or termination date of a collective bargaining agreement which has been opened for negotiation. Section 1401.4 provides that such dispute notices are not confidential. It states that interested parties "have the right"—and frequently do request—"to receive certified copies of any such notices of dispute upon written request to the regional director of the region in which the notice is filed."

We believe that our effectiveness would be seriously jeopardized by passage of H.R. 5012 in its present form. We believe that the special needs of the Service must be recognized, and that it must continue to classify the reports and records described in the regulation quoted above. We do not believe that the Service has abused, or indeed, could abuse, the classification of "confidential" by keeping such case records, reports, and files from the general public—including competing parties in a labor dispute subject to FMCS jurisdiction.