

Mr. Moss (presiding). Let me ask you this: Is this information presently protected by a rule or regulation promulgated under the authority of the Administrative Procedure Act or under 5 U.S.C. 22?

Mr. SMITH. I believe so; yes, sir. Our basic regulations for the Department as a whole and our subsidiary regulations for various portions of the Department, specify certain documents which are readily available, and then specify that certain others are deemed confidential for various reasons, and I would think that those examples that I have mentioned would come within the specifications.

Mr. Moss. Now, the examples you mentioned, let us go back to this matter of the coinage problem and ask whether information relating to coins or coinage is specifically protected by a rule or regulation of the Department of the Treasury? You have, under 5 U.S.C. 22 the authority to make rules and regulations for the custody, use and preservation of your records. Under section 3, is it not, of the Administrative Procedure Act you have a right to make rules and regulations on the information to be made available, do you not?

Mr. SMITH. Would you care to have me read the basic provision in our regulations, sir, that I think relates to this?

Mr. Moss. Yes.

Mr. SMITH. This is entitled—

CONFIDENTIAL OFFICIAL RECORDS

For one or more of the following good causes, certain information in the official records of the bureaus, divisions, and offices enumerated above is held confidential and is not available to the public:

(1) The information has been submitted in confidence to the Treasury Department;

(2) The information relates to a financial matter or some other type of transaction between the Government and an individual or corporation, the disclosure of which would be prejudicial to the individual or corporation involved (such as by aiding a competitor) without furthering the public interest;

(3) For security reasons, such as protection against counterfeiting;

(4) The information pertains to negotiations with foreign countries, which information, because of its nature or because of an agreement between this Government and the foreign countries concerned, is required to be held confidential;

(5) The material is made confidential by law, such as tax returns; or

and I think this is the one that applies, although some of the others might have—

(6) The disclosure of the information would clearly be inimical to the public interest.

Mr. RUMSFELD. Mr. Chairman, may I ask a question?

Mr. Moss. Certainly you may.

Mr. RUMSFELD. Your first point, I think, was that it was submitted in confidence to the Treasury Department?

In other words, the supplier of the information determines the classification, secrecy classification, of it? If the person says, "I am giving you something in confidence," then it automatically falls within this provision, is that what you are saying?

Mr. SMITH. Yes, largely. This relates, of course, to voluntary information, not information that they are required to submit to us.

I will give you an example. In our program which was recently announced to help our balance of payments the banks and other financial institutions were requested by the President to cooperate voluntarily; we have an elaborate questionnaire as to their foreign