

Mr. KASS. Well, now, how would this bill, which specifically exempts from disclosure matters which have been exempted by statute, affect the Trade Secrets Act?

Mr. SMITH. Well, 1905, as I recall it, prohibits disclosure of confidential information except as authorized by law, and when you get into this question of this section 2, if it were enacted, is it authorized by law? I mean does section 2 have the effect of meeting the test of 1905. I think that is our point.

Mr. MOSS. I think it is a very good point.

Mr. KASS. Mr. Smith, in your opinion could this matter be sufficiently covered by the legislative history or would your department, faced with this statute if enacted, still have that problem?

Mr. SMITH. Well, we certainly would be amenable to any guidance given in the legislative history, and we would endeavor to interpret it naturally in the way in which it was intended by Congress. But I would merely suggest that there might be some way in which this could be clarified a little bit in order to avoid that problem.

Mr. KASS. Mr. Smith, what is your present statutory authority for withholding your own trade secrets? You started to mention that earlier, dealing with ink and paper processes for making money?

Mr. SMITH. I think that it is contrary to the public interest.

Mr. KASS. So the statutory authority—

Mr. SMITH. I do not think there is any specific statutory authority we could point to for that.

Mr. KASS. You would not point to 5 U.S.C. 1002?

Mr. SMITH. Well, that is public interest. I think we would say within the meaning of 1002 that the process for making the ink and paper for our currency must be maintained a secret in the public interest within the meaning of—yes, I suppose we could cite 1002.

Mr. KASS. So then your specific statutory authority in this instance is 1002?

Mr. SMITH. It would be the only specific one.

Mr. KASS. These are trade secrets or other informational matters which your department has, on its own, developed?

Mr. SMITH. Yes.

Mr. KASS. And not given to you by anybody else?

Mr. SMITH. Yes, and I might say there are other cases of that. For instance, the Coast Guard is constantly developing various kinds of equipment, electronic and otherwise, that it uses in its various activities.

Mr. KASS. Are these patented?

Mr. SMITH. Port security activities. Some are patented and some are not.

Mr. KASS. Mr. Smith, as the law now stands, 5 U.S.C. 1002, who, in your opinion, is a person properly and directly concerned who should be given information, who should be given Government information?

Mr. SMITH. Well, I think it depends upon the nature of the proceeding, of the subject matter. It is hard to generalize. But obviously, let us say a man who applies for a gold refiner's license is properly and legitimately concerned with the documents that he submitted to the Treasury.

For instance, if he wants to get them back later on or remember what he said in his application; in the case of a corporation, a majority