

to which it would have application is the present section 3 of the Administrative Procedure Act, and consequently we are suggesting that the present section 3 of the bill that is before you be deleted and that in lieu of that we insert two new sections.

One section would amend subsection (b) of section 3 of the Administrative Procedure Act to make it conform with the provisions of this bill. That subsection is now subject to the exemption provisions which are contained in section 3, namely, "any function of the United States requiring secrecy in the public interest or any matter relating solely to the internal management of an agency." Of course that is not consistent with the exemption which we have here.

Subsection (b), which is subject to those exemptions, now reads that "Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules."

Now, in order to make that conform, we would suggest that we add a new section 2 to this bill which would provide:

SEC. 2. Subsection (b) of section 3, chapter 324, of the act of June 11, 1946 (60 Stat. 238), is hereby amended to read as follows: "(b) Every agency shall publish or, in accordance with the requirements of section 161 of the Revised Statutes of the United States (5 U.S.C. 22)—

which is this section—

"make available, all final opinions or orders in the adjudication of cases and all rules."

Additionally we would suggest that a new section 3 be added to repeal subsection (c) of the present section 3 of the Administrative Procedure Act, because we believe that subsection would be inconsistent with the bill that we have before us.

Mr. Benjamin, would you like to sum up?

Mr. BENJAMIN. No. I think that Mr. Hanes has covered what we had to suggest, and as I said before, either of us would be glad to answer any questions.

Mr. MOSS. Mr. KASS?

Mr. KASS. Mr. Hanes, I want to thank you for this excellent analysis of the bill and the suggested changes.

Mr. HANES. Thank you.

Mr. KASS. Mr. Hanes, in the 19-year history of the Administrative Procedure Act, since 1946, has the public information section, section 3 of that act, been a true public records law in your opinion?

Mr. HANES. It has not in my opinion, Mr. Kass, but I think that Mr. Benjamin is well documented on this subject because he has been working on an amendment of that section for many years. I think—and I am going to ask him to comment on it—I think it is true that the fact that it has not been a true public records law has been documented time and time again by the Hoover Commission and by the hearings that were held on section 1663 last year and by the work of this committee itself since 1955.

But Mr. Benjamin might like to add something to that.

Mr. KASS. Mr. Benjamin?

Mr. BENJAMIN. I would think that the primary source of the answer to that question is the work of this subcommittee, or at least as important a source as any. And I should think a most important source.