

[foreign] person" without reciprocal benefits. As a related point, the Commission has established internal procedures governing the dissemination to foreign nations of unclassified published and unpublished AEC technical information. Under these procedures unusual requests from foreign nations; e.g., for large collections of engineering drawings on nuclear reactors, chemical processing plants, etc., are subject to careful examination, while the same information is not withheld from interested domestic parties. Under H.R. 5012, it would appear that such information is to be made available to anyone, since it is presumably not covered by the first exception, dealing with "foreign policy."

In the case of certain of our exchange programs, we have agreed with the cooperating nations that some categories of information we receive from them, although unclassified, will be given only limited distribution by the Commission. The language of the bill does not make it clear that it would permit continuation of such arrangements.

We believe that a question is raised by the word "solely," as it occurs in the second and fifth exceptions. A serious question of interpretation might arise if a court should be called upon to consider whether a document relates "solely" to the subjects discussed in those sections—internal personnel rules and practices, matters of law or policy. In view of the fact that the question whether a document falls within the excepted classes would be decided by litigation, we think that such language is especially troublesome.

The exceptions for records and reports of investigation should not apply "to the extent available by law to a private party." We believe that the quoted language should be clarified and an objective standard enunciated in the bill itself, especially since an order directing the disclosure of information might lead to irreversible prejudice to the public interest.

REPLY FROM CIVIL AERONAUTICS BOARD

CIVIL AERONAUTICS BOARD,
Washington, D.C., March 12, 1965.

HON. WILLIAM L. DAWSON,
*Chairman, Committee on Government Operations,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request for reports on H.R. 5012 through H.R. 5021, H.R. 5237, H.R. 5406, H.R. 5520, and H.R. 5583, bills "To amend section 161 of the Revised Statutes with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records."

The proposed legislation would require every agency of the Federal Government to make all its records available to the public, except for those in specified categories. Persons denied access to records would be entitled to seek an order from a Federal district court convenient to them requiring the production of the records with the burden of proof to justify withholding being placed on the agency involved.

It appears from statements made in support of the legislation when it was introduced that it is based on S. 1666, 88th Congress, a bill amending the Administrative Procedure Act. The Board is gratified that a number of provisions contained in S. 1666 to which it objected in a report to the Senate Committee on the Judiciary on October 23, 1963, have not been incorporated in the legislation, and that the scope of the provisions exempting materials from disclosure has been broadened. At the same time, however, the Board is concerned as to the effect of some of the provisions on its policies and procedures.

Before discussing these provisions, the Board wishes to point out that it recognizes the overall desirability of making factual information available to the public to the fullest extent consistent with the effective discharge of the public business and the private rights of the persons from whom the information is obtained. In furtherance of this objective, the Board attempts to make factual information in its possession available to private persons to the fullest possible extent. Thus, the Board makes factual information relating to aircraft accidents available for the use of private litigants when it cannot be obtained from other sources. The Board also makes available various statistical and other information relating to air carriers, and section 1103 of the Federal Aviation Act (49 U.S.C. 1503) specifies that most of the matters filed with the Board by air carriers and other persons be treated as public records. Conse