

gative file material to the controlled circumstances permitted under *Jencks* and 18 U.S.C. 3500 for the limited purpose of impeachment of Government witnesses.

In order to eliminate the existing ambiguity we recommend that the text of clause (7) be revised to read: "(7) investigatory files except to the extent available by law to a private party."

REPLY FROM FEDERAL RESERVE BOARD

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,

Washington, D.C., March 10, 1965.

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

DEAR MR. CHAIRMAN: This refers to your letters dated February 19, 1965, and February 24, 1965, respectively requesting a report and views on bills H.R. 5012 through 5021, and H.R. 5237, each identical with the others, all of which would amend section 161 of the Revised Statutes (5 U.S.C. 22) with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records. For purposes of this reply, references to provisions of H.R. 5012, together with comments thereon, are intended to apply equally to bills H.R. 5013 through 5021, and H.R. 5237.

Subsection (a) of H.R. 5012 is identical with the present language of the entire R.S. 161. In the interest of an ordered administration of Government Affairs consistent with the public interest the Board approves the provisions of subsection (a) of H.R. 5012.

With the exceptions of a portion of exemption numbered (4) (p. 3, lines 6 and 7 of H.R. 5012), exemption numbered (8) (p. 3, lines 14-17 of H.R. 5012), and certain other minor variations, the combined subsections (b) and (c) of H.R. 5012 are identical with the provisions of section 3 (c) and (e) of S. 1663, 88th Congress, as revised by the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary.

Exemption numbered (4) in H.R. 5012 would authorize withholding from the public matters that are "trade secrets and commercial or financial information obtained from the public and privileged or confidential." Exemption numbered (8) would authorize withholding matters "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions." The language of the latter exemption is identical with language that the Board proposed be added to S. 1663. This proposal, with explanatory comments, was submitted to Chairman Long of the Senate Subcommittee on Administrative Practice and Procedure, by letter of July 15, 1964.

The Board considers the provisions of H.R. 5012 to be a vast improvement over the provisions of S. 1663 as originally introduced and, because of the presence in H.R. 5012 of the above-quoted portion of exemption numbered (4) and exemption numbered (8), to be an improvement over S. 1663 as revised. Nevertheless, the Board continues in its belief made known previously in its expression of views on S. 1663, that the public's right of access to Government records and information is adequately and reasonably secured and served by the provisions of section 3(c) of the Administrative Procedure Act (5 U.S.C. 1002(c)). It is the Board's opinion that a combination of the provisions of section 3(c) of the Administrative Procedure Act with the court enforcement provisions proposed in H.R. 5012 would assure an equitable balancing of the need of Federal agencies to determine themselves what records and information a particular person should or need have, with the public's right to such records and information. Applied to this Board, there is reason to believe that a literal construction of the eight exemptions from disclosure contained in H.R. 5012 could leave exposed to indiscriminate public demand certain critical records and materials relating to the Board's credit and monetary policy functions, as well as to other of its statutorily directed functions. Such a result could impair the Board's effectiveness both as an instrument of national economic policy and as a regulatory body.

Regarding the provisions in subsection (b) of H.R. 5012 which would enable a complainant to secure judicial relief when an agency wrongfully withholds records and information, the Board is in sympathy with the need for a form of judicial enforcement, and is generally in accord with the means to this end