

ABSTRACT

Thomas Newcomb

In From the Cold: The Intelligence Community Whistleblower Protection Act of 1998

53 Admin. L. Rev. 1235 (2001)

Abstract by Michele Hinerman

To promote and facilitate whistleblowing in the Intelligence Community, H.R. 3829, the Whistleblower Protection Act, extended the related Senate bill, S. 1668. The proposed Senate legislation threatened to disrupt the complex and longstanding relationship between the legislative and executive branches for the oversight of intelligence activities. In contrast, H.R. 3829 retreated from the new ground claimed by S. 1668 and afforded the executive no new ground. In the author's view, H.R. 3829 did nothing more than restate a point of compromise that had been reached by the branches several years ago in the Inspector General Act of 1978.

The author outlines the Senate and House activities that generated these respective bills. Furthermore, the constitutional, statutory, and policy objections to the Senate bill are addressed. Although there were administrative objections to the House bill, a compromise was reached and both the House and Senate approved H.R. 3829.

The intended flood of whistleblowers anticipated by H.R. 3829 has produced nothing more than a trickle of forthcoming individuals. The author argues that for the most part, the Act has done nothing more than avert a confrontation between the branches. However, the Act has provided some assistance to the Intelligence Community who recognize the need for informed oversight by Congress.