

Exemption (6) for "personal and medical files and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy," is even less clear. We wonder whether the reference to "similar matters" would include matters disclosed to the Treasury concerning persons who are not Government employees but are applicants for some privilege. These applicants might be seeking a foreign assets control license, an alcohol or tobacco license, merchant marine certificates, or authorization to practice as custom-house brokers. It is hoped that matters concerning them given to the Treasury would be as exempt from disclosure to any person as would be the personnel files of Treasury employees.

A greater ambiguity is presented by the proposed test for preventing disclosure; namely, "a clearly unwarranted invasion of personal privacy." An invasion of personal privacy is now a recognized tort whenever the invasion is unwarranted. An invasion of privacy is unwarranted, according to modern law, when the public interest does not warrant the invasion. The test proposed in the statute would therefore appear to divide unwarranted and those which are unwarranted but not clearly so. We are of the view that no unwarranted invasion of privacy is justified and doubt the propriety of attempting to legitimize it.

Next I would like to speak about what we feel is the inappropriateness of the court provisions. The provisions in subsection (b) for district court action in the event of nondisclosure of Government records give extraordinary advantages in litigation to any person who may want to see Government records regardless of the propriety of his demand. The provisions, in our opinion, depart from the principles of fairness which characterize the judicial process and would deprive the Government of the benefit of many usual rules of judicial procedure.

In the first place, any disappointed person is given standing to sue an administrative agency without question, simply upon his complaint that he did not receive all of the records and files which he had demanded. Persons who are dissatisfied with other types of agency action or inaction are entitled to seek judicial relief if they have suffered legal wrong because of the agency action or have been adversely affected or aggrieved by such action within the meaning of any relevant statute. We believe that persons who are disappointed in obtaining Government records and files should be provided with a judicial remedy only if they have thereby been wronged or adversely affected.

In civil litigation the plaintiff has the burden of showing that he is entitled to relief and, if he does not make this showing, his complaint may be dismissed. Under the proposed legislation the complainant has no obligation to show any reason for obtaining Government records or any need for such records, he simply complains that the Government has not given him what he demanded. The propriety of his claim, no matter how contrary to the public interest it might be, apparently must be disregarded by the court. This seems to us not only an arbitrary limitation on the judicial process but one which may cause a heavy and unnecessary burden on the judiciary as well as upon those in the executive branch who must defend these court actions.

Furthermore, Congress has provided that certain court actions are to be given precedence over other litigation in unusual cases which