

Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest.

I am not trying to say that anybody should really recognize anything. It is just we feel that it is essential——

Mr. Moss. The word "recognize" is the word that disturbs me.

Mr. SMITH. Yes.

Mr. Moss. The additional language.

Mr. SMITH. Well, I feel——

Mr. Moss. Granting the right to prohibit disclosure on the grounds of the public interest is a different subject.

Mr. SMITH. I think that is the essential feature.

Mr. Moss. Who should make this decision?

Mr. SMITH. I think that, in my opinion, and this is the way it works in the Treasury Department I know, that essentially it is the decision of the Secretary of the Treasury.

Now, that does not mean that there are not others who refuse on a given occasion or in a specific instance to disclosure a particular matter. But there can always be an appeal to the Secretary of the Treasury in the first place if they do not get it from the man in question and, secondly, the refusal is almost always based on policies which have previously been approved by the Secretary.

So that I think that essentially and ultimately the head of the Department is the man who should make this determination.

Mr. Moss. I would not be nearly as concerned if I could be convinced that that was the case. Going back over the years on occasion I have had great difficulty in getting a matter acted upon by the head of the Department. We have had some refusals referred to us, and they have been pretty well down the line. It has been very difficult to get the Department head to look at it.

Mr. SMITH. Well, sir, all I can say is that I have been in the Treasury 22 years, and I——

Mr. Moss. I am not saying we have had this problem with the Treasury.

Mr. SMITH. Yes.

Mr. Moss. Remember, we are not here considering problems arising only in connection with the operation of the Department of the Treasury. I think in the course of the past 10 years there have been sufficient reports in the press of instances uncovered by this committee to make it very clear that we are not just conjuring up something here. There have been problems, real problems, in an effort to overcome these problems that we are proposing an effective public records law.

Mr. SMITH. I would be the last one to say that there were not cases where there was an illegitimate attempt to refuse to provide information either to the Congress or to members of the public.

I will say this: that I think it has been my experience that there has been considerable improvement over when I first came to work in the Government. I came to work in wartime, 1943, and there was terrible overclassification, for example, in those days. People were busy and they had a good excuse—the war effort—for refusing to give anybody anything, and I think a lot of people in Government got into some very bad habits and forgot who they were working for; namely, the taxpayers, the citizens of the United States. But I really feel that as far as the dissemination of information is concerned, there has been great improvement. I certainly can see it in our own Department.