

Mr. Moss. You know I do not think that is contemplated under this: "Every agency shall, in accordance with published rules stating the time, place, and procedure to be followed, make all its records promptly available to any person," and I think some of the records you are discussing could be covered under appropriate rulemaking. Your report on a matter of coinage is not complete. At the moment it reflects no official records. It is a proposed, it is an interim report; it is an internal memorandum covered here under "interagency or intra-agency memoranda or letters dealing solely with matters of law or policy." Your recommendations to the Congress are a matter of policy, solely. You may put in a lot of stuff to support it, and if it is not broad enough to cover, I think you could suggest to us that we make a modification or cover it by appropriate language in the report.

Mr. SMITH. Well, factual information, for instance, I had a reporter on the phone the other day about when are we coming up with our coinage recommendations, and I said I hoped very soon. He said, "What alloys have you tested at the Philadelphia Mint?" Well, I said, "We have tested a whole bunch of alloys, all feasible possibilities." He said, "Did you test this one?" and he mentioned a specific metal or mineral.

Now, there is factual information that if we read this right is not covered by internal memos on law or policy. We have statistics and we have records of tests and things, just factual information which could be very damaging to give out at the wrong time, and yet I do not believe we would say that it is covered by internal memorandums of law or policy.

Mr. Moss. We have gone into a lot of matters here today, and it seems to me you cannot have a memorandum dealing solely with law that does not cite fact, and it is inconceivable to me that you could have a memorandum dealing solely with policy that does not cite fact.

Mr. SMITH. Well, I would suggest, sir, that I think that word "solely" is not helpful in there, because this is what, partly what, gives us concern, that if it has got some fact in it, and if you read this one way——

Mr. Moss. If you cite a statute, that is a fact, is it not, and a matter of law?

Mr. SMITH. But if we had an internal memo discussing policy, but along with it in there are some statistics, some facts, let us say, on testing coins, then I would not regard that memo as dealing solely with matters of law or policy, at least that is the way I interpreted this provision.

Mr. Moss. Mr. Smith, let me say that your discussion is very helpful, and I appreciate it. But I can only observe that the tendency in agencies is to regard these things very narrowly when we discuss them in a committee, and very broadly when they administer them.

Mr. KASS. Mr. Smith, would your agency have any objection to releasing those memorandums dealing solely with facts—in other words, facts compiled for your agency, no policies, no law, no interpretations, just facts, actual investigation reports, accident investigation reports, in the Coast Guard or other things like this?

Mr. SMITH. Oh, yes, there are certain ones that we would.