

Mr. KASS. So there would be some objection even to specific factual memorandums after all——

Mr. SMITH. Yes.

Mr. KASS (continuing). For release.

Mr. SMITH. I cannot emphasize this question of timing too much. Something that could be very damaging to be put out today, we would be glad to give anybody 2 weeks from now. I think the matter——

Mr. MOSS. But the agency shall, "in accordance with published rules, stating the time, place, and procedure to be followed."

Mr. KASS. That is in the bill, line 2, page 2.

Mr. SMITH. Well, I thought that was merely saying between the hours of 9 and 5:30, at such and such an address.

Mr. KASS. I suppose you could also say between 2 and 4 a.m., on Sunday morning?

Mr. SMITH. But if you mean timing, if you mean that when somebody asks for something and we say you can check in 6 months from now, I do not believe you mean that.

Mr. GRIFFIN. You get into a discussion of that word "promptly" in line 3, don't you?

Mr. MOSS. That is right.

Mr. KASS. Mr. Smith, you objected to the phrase "clearly unwarranted invasion of personal privacy." Why?

Mr. SMITH. I almost took that out, but it seemed a little funny to say in a law you had to exempt something clearly unwarranted. But if it was just plain unwarranted that you should give it out.

Mr. KASS. Does not your own regulation that you cited earlier this afternoon stating something about those matters which are "clearly inimical to the public interest," what is the difference between that——

Mr. SMITH. I think there is a big difference there, because this puts the burden on us. In other words, this is the emphasis which is on not withholding. I think there the word "clearly" puts the burden on the Government agency to give it out.

Mr. KASS. Whose burden would this be under the "clearly unwarranted invasion of personal privacy"?

Mr. SMITH. I suppose it is the same situation, although I still must say that if it is an unwarranted invasion of personal privacy, I cannot see why Congress would want to say it should be given out. It is a minor point, though, I must say, I almost took it out of the statement because I do think it is a little petty, that point. It offended my sensibility a little bit.

Mr. KASS. Mr. Smith, one other question: We were talking earlier about the concept of persons properly and directly concerned. Who sets the criteria as to who is a person properly and directly concerned in your agency?

Mr. SMITH. I would say it was the head of the department and the heads of the bureaus that promulgate these regulations.

Mr. KASS. Do persons in other agencies and departments fall under the category of persons properly and directly concerned?

Mr. SMITH. It depends upon whether they have a legitimate need in their activities, they are authorized by law for the particular type of information in question.

Mr. KASS. I am talking about, for example, the Department of the Treasury files, compiled for whatever purpose and given then to the