

Mr. RUMSFELD. Thank you, Mr. Chairman. I certainly want to join the other members of the subcommittee in welcoming all three of these distinguished gentlemen to the committee today.

I am certainly proud to have a prominent resident of the 13th District to join us. I have one or two questions.

Do you feel that this bill adequately describes the climate that you feel should exist in government?

Mr. BLACK. Well, let me say first—

Mr. RUMSFELD. Or better yet, do you have specific suggestions for language revisions in the draft of the bill?

Mr. BLACK. Well, let me say first in responding to your remarks, that I am glad to see the Congressmen from my own district taking interest in legislation of this kind. I think the legislation goes far in the right direction. Whether you can say "adequately" is something that I think will depend on the final bill you draft. I think the important thing is that it turns the situation around and puts a responsibility on the agencies to justify their suppression or withholding of information.

The problem now—as has been pointed out by a number of people in the past, including Congressman Moss—is that the legislation which is on the books often has done just the opposite of what it was intended to do. Instead of disclosing information it has been used as a means of stifling information. The provisions in the original act have been cited as a basis for withholding. The housekeeping statute situation was pretty well cleared up as a major obstacle, but then so many times the provisions of the Administrative Procedure Act, which were intended to make information available have been used for just the opposite.

I think there are perhaps more qualifications in here than ideally most newspaper editors would like to see. On the other hand, we recognize the justification of some of—or most of—the claims for exemptions that are made here. The important thing, I think, is that you do have some recourse, or you would have under legislation of this kind, which is not presently available.

Mr. RUMSFELD. You read the Department of Justice's testimony here, and, of course, the essence of that was, No. 1, that such a bill could not be drafted. It simply could not put words on paper to cover the circumstances, and No. 2, that if the bill was drafted, it was unconstitutional. You've addressed yourself to those two points somewhat. I wonder if you could comment on something that came up subsequent to that testimony about press photos and the desirability of permitting greater freedom of information in terms of press photos, which is not specifically covered in this bill.

Do you feel that this is an area where the Government denies access to premises so that photos can be taken, which is somewhat in the same area, but not directly in point, because the opportunity to take a picture isn't really a public record as such.

Mr. BLACK. I don't see that really as a part of this problem. It is a large problem in itself, but it relates primarily to the courts. We have had the same problem in connection with some of the administrative agencies which have quasi-judicial authority, but that is another question which I think should not be involved in this legislation.