

ment in its most unsatisfactory, most difficult, and generally most ineffectual form.

At the same time, if our system is to surmount its challenges, disclosure must always accord with the public interest. A successful democracy will never be built upon freedom of information achieved simply by affording to any and all persons unrestricted access to official information. Because of the scope and complexity of modern government, there are, literally, of infinite number situations where, in information in the hands of the government must be afforded varying degrees of protection against public disclosure. The possibilities of injury to private and public interests through ill-considered publication are limitless. And again, no one quite so fully appreciates the necessity for nondisclosure as the public official who is charged with the custody of the records involved and the administration of the program to which they relate.

The problem, so-called, of public information is, therefore a very real problem and a very difficult one. Mr. Paul Conrad, as spokesman for some 22 daily newspapers in the State of Washington, described it well in a letter to Senator Magnuson in 1963 in support of the Senate bill to revise the public information section of the Administrative Procedure Act, S. 1666, in the 88th Congress. Mr. Conrad wrote:

If ours is in fact a government by and for the people, then there is a place for secrecy and a place for easy access to information about government. Democracy requires many delicate balances, and this is one. Too much secrecy, or too free access, can render a great disservice to the people.

The "delicate balance" to which this letter refers often requires the most sensitive of judgments. The basic thrust of H.R. 5012, the bill before this subcommittee, is to eliminate any application of judgment to questions of disclosure or nondisclosure, and to substitute, therefore, a simple, self-executing legislative rule which would automatically determine the availability to any person of all records in the possession of all agencies, except Congress and the courts.

The bill would reserve to the President authority to classify as "secret" information in two designated areas—national defense and foreign policy. However, even in these two areas, the bill seeks to prohibit nondisclosure except as the President, by Executive order, identifies the matters which he has determined must be kept secret and specifically requires that they be withheld. Otherwise, however, H.R. 5012 attempts to leave nothing to Executive discretion.

I respectfully submit, Mr. Chairman, that this approach is impossible and can only be fatal to this committee's undertaking. There is no way, I submit, of eliminating judgment from the means we use to resolve this problem, and substituting for that judgment a verbal formula to be applied by another branch of government which is not charged with responsibility for execution of the laws. The problem is too vast, too protean, to yield to any such solution.

I do not, Mr. Chairman, come prepared this morning to document in detail the particular ways in which H.R. 5012 would adversely affect the public interest. The other departments and agencies, each in turn, will do that job of documentation as to the types of records and information with which each is particularly concerned.