

But this subcommittee cannot alone break the curtain of secrecy and withholding. It can only handle specific cases over a long period of time. A Federal public records law is necessary to counteract the massive, agency-by-agency withholding. Such a law will make it unprofitable for agencies to withhold when in doubt. With the threat of a judicial judgment, many routine records will be available, and many others will be open with far less effort than it takes today.

The great strength of democracy in Montana is that it does not operate behind closed doors. Access to State records is not enough. We have delegated to Federal agencies authority to spend billions of dollars each year. The work of Federal regulatory agencies affects consumers' expenditures of billions more for light, heat, transportation, communications, securities, and in trade. To assure prudent expenditure of Federal funds and to guarantee fair rates for consumers, we must supervise the work of our public servants on the Federal level. Supervision must be based on knowledge. A press release is not enough. The records kept by our public agencies must be public records. The orders and rules, opinions, and decisions of our regulatory agencies are public business. And public records they should be.

I urge quick passage of H.R. 5012 so that the Senate may consider its companion bill promptly.

STATEMENT OF HON. THOMAS L. ASHLEY, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF OHIO

For the record, Mr. Chairman, I would like to say that I originally had intended to appear before the Subcommittee on Government Information and Foreign Operations to testify in favor of the so-called freedom of information legislation. At the time I was scheduled to make my presentation, however, I was attending an International Maritime Conference in London at the request of the State Department.

Nevertheless, I wish to briefly state my support for this legislation to clarify and protect the right of the public to Government information. The issue which H.R. 5012, which I have cosponsored, seeks to resolve is where Government secrecy ends and public accountability begins, of finding the right combination of freedom and security.

Many States have a public records statute which gives the citizen a right to inspect public records, and specifies the only information which officials can withhold. The Federal Government, unfortunately, has no such public records statute, and in recent years officials in the executive departments and agencies have appeared confused as to what authority they have either to give or withhold information. Contrary to the intent of Congress, they frequently rely on a section of the Administrative Procedure Act to withhold information from the Congress, the press, and the public.

The qualifications of section 3 of the Administrative Procedure Act have enabled agencies to assert the power to withhold practically all the information they do not see fit to disclose. Investigations by this subcommittee show that that section of the law, meant to be a disclosure statute, has been repeatedly used as a shield of secrecy.

The legislation now being considered is in essence nothing more than a house-keeping measure to clarify existing law and to put a brake to a growing penchant for secrecy among Government officials. It would eliminate many of the vague phrases in the present statute, set up workable standards for making records open to public inspection, eliminate the test of who has the right to different information and give a remedy in court to any aggrieved person, with the burden of proving the legitimacy of withholding on the agency. To protect information which should be kept secret, the measure makes exceptions for matter exempted from disclosure by statute, state and military secrets and matter relating to national defense, and matters relating solely to internal personnel rules and practices. Material specifically covered by executive privilege would not be affected by the bill.

STATEMENT OF HON. ED EDMONDSON, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF OKLAHOMA

I want to commend Mr. Moss for his long and fruitful record of interest in the principle of freedom of information, and in this bill to establish a meaningful