

officials that certain categories of Government information must not be released. Each valid complaint was answered, I believe, by the legislation passed by the Senate and introduced in the House by myself and a number of my colleagues. But still the proposed Federal Public Records Law is not weak enough for most Federal departments and agencies. Yesterday you heard witnesses seriously urge that the proposed Federal public records law be weakened further; today I would like to discuss some of those suggestions for a weaker law.

This Subcommittee was urged to disapprove legislation which would make the records of the Federal Government "promptly available to any person." Instead, witnesses said, the present law should be left as it is—information need be made available only to "persons properly and directly concerned." What a misused provision of law this has been over the years. A Government employee decides whether a citizen, petitioning the Government, has a proper right to information. We heard just such an argument in the very first hearings held by this subcommittee in 1955. We heard the Civil Service Commission Chairman argue that he would disclose the names and salaries of Government employees only to a "legitimate" reported who wanted the information for a "reasonable" purpose. And why did he arrogate unto himself the power to determine the legitimacy of a request for Government information? He testified, in explanation, that "we do not want to wash our dirty linen in public."

Government information should be available to "any person" for a very good reason—it is the character of the information that determines its availability, not the character of the person requesting it. The Government—and its employees—have no right to discriminate between citizens who seek the facts of Government. If the particular item of information is of the type which must be kept within the official Government family—and that includes the Congress—it should be withheld from all the public. It should not be made available to the favored few as the present law permits.

One witness before this subcommittee used, as an example of the type of information which would be disclosed under the proposed Federal public records law, the studies being prepared for Congress in connection with the coin shortage. The General Counsel of the Treasury Department said that misuse of the study—which, he contended, they would be forced to disclose—would lead to hoarding of coins and profit by speculators.

The Treasury Department could not be further from the fact. I speak not only as an author of the bills which the Department criticized but also as chairman of another subcommittee of the House Government Operations Committee which has just issued a report on the coin shortage problems. Certainly a communication between the Treasury Department and the Congress on the policy problems of the coin shortage should be protected from premature disclosure. And it would be protected by a provision of the legislation which protects interagency messages on matters of policy. Just as certainly, the Treasury Department would have the necessary power under the proposed law to protect other information which has, in the past, permitted coin speculators to gain an unfair advantage. The report by my subcommittee urged, for instance, that the Treasury Department halt the publication of monthly reports on coin production in the Nation's two mints. These reports have been used by speculators to gain knowledge of when to hoard coins produced in small amounts during any 1 month. Following my subcommittee's suggestion, the monthly coin production reports were abolished and the Treasury Department could take exactly the same action under the proposed Federal public records law. One provision of the proposed legislation exempts from disclosure "conditions reports prepared by * * * any agency responsible for the * * * supervision of financial institutions." Certainly, the reports to which my subcommittee objected fall in this category. Thus, I do not believe the Treasury Department can use this example as valid grounds for opposing a Federal public records law.

It has been my experience that the Federal agencies can always come up with an excuse for secrecy. If the laws passed by Congress and signed by the President do not give them the power they seek, they fall back on their interpretation of the Constitution. And the opponents of the proposed Federal public records law are doing just that. They are arguing that such a law would be unconstitutional—that the Congress does not have the power to tell the executive branch of Government to open its files to the citizens of our Nation. This argument has all the aspects of a ghost I thought we had laid to rest while I served on this subcommittee. It is the dead issue of "executive privilege" wrapped in a new winding sheet.