

Time after time Federal officials far down the administrative line from the President raised the cry of "executive privilege" when faced with a demand to disclose the facts of Government. Time after time they held up their interpretation of the Constitution as a shield against public knowledge of their activities. They relied on their interpretation—not the Court's interpretation, nor the laws spelling out the Constitution. They said that article II of the Constitution, granting the "executive power" to the President and charging him to "take care that the laws be faithfully executed" gave the whole range of bureaucracy the power to ignore the laws of the land. This claim of "executive privilege" was cut back to size in 1962 when the President said he, and he alone, would decide in each and every case whether such a privilege would be claimed against the Congress.

Now the issue is raised again by representatives of Federal Departments who claim that Congress does not have the power, under the Constitution, to enact the proposed Federal public records law. What they are claiming, of course, is that Congress does not have the authority to enact a public records law which is not acceptable to them. Certainly a public records law can be enacted, and it has been—it is the weak provision under which the Federal agencies now determine how much the public shall know about their operations. But just as certainly the Congress has the authority to enact a strong Federal public records law. In fact, Congress has the duty to enact such a law.

The proposal before you is just such a measure. I urge upon you its approval.

STATEMENT OF HON. SAM M. GIBBONS, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF FLORIDA

Mr. Chairman, and members of the Subcommittee on Foreign Operations and Government Information, I am pleased to have this opportunity to present my views on the right of all Americans to know what their Government is doing and legislation which has been introduced to safeguard this cherished right.

The "right to know" is one of the very basic of all American rights under the Constitution of the United States. It is the cornerstone of our great democracy. It must be preserved at all costs.

With the great growth of our Federal Government, and government at all levels, for that matter, it is increasingly important that the right of all of our citizens to have free access to certain information be not diminished, but enhanced. Not weakened, but improved.

I, along with several other of my colleagues, have introduced bills to require every Federal agency to make all its records, with certain exceptions, readily available to any interested citizen of this country. If such an individual felt he were being denied access to Government information to which he felt justly entitled under this legislation, he could go into a Federal district court and force the appropriate Federal officials to produce the data or show sufficient cause why they were deemed "privileged."

Under the Administrative Procedure Act of 1947, Federal agencies were required to make official information available to the Congress and the American people under certain conditions.

Unhappily, the plain truth of the matter is that the act has aided the various Federal departments and agencies to maintain a tight lid of secrecy over records which clearly should not be so labeled. The problem, I believe, arises from wording in the 1947 act too vague for effective public access to exist.

I submit that the language in the present law which allows each agency to withhold certain information and records at its own discretion, under the guise of "secrecy in the public interest" must be changed. And changed during this session of the Congress, if we are to preserve our precious heritage of the right of the individual to be as well informed as he wishes to be on certain matters.

Presently, every last one of our various agencies and departments on the Federal level are allowed to set their own guidelines as far as determining just what "secrecy in the public interest" means. In fact, what one agency determines as fitting in that category may not be so judged by another agency.

What we need is uniformity established by the Congress, which would tighten up this clause in the Administrative Procedure Act to establish two objectives: (1) clearly define where the security of the United States stops and the right of every American to know what his Government is doing, and (2) provide an effective judicial remedy in a Federal district court for every U.S. citizen who