

feels that he has a legitimate right to certain Federal records and information and has been denied it.

Now, no one wants to unduly hamper or restrict any Federal agency or any Federal official in the proper performance of their official responsibilities, but on the other hand, let us all remember that what we are talking about is part and parcel of the great American Revolution of 1776.

This country did not fight the tyranny of a George III to have its citizens, nearly 200 years later, be at the mercy of a huge bureaucracy with no adequate means with which to defend themselves. It has often been said that "knowledge is power" and particularly is this true with respect to the individual versus the power of the state.

This right to know is one of the most fundamental of all those guaranteed us by the Constitution and the Bill of Rights. What my bill, H.R. 5237, and the others introduced at this session of the Congress by interested colleagues, would do is place the burden of proof on the Federal agency or department concerned in cases of alleged denial of information.

Accordingly, any Federal agency would have to prove its right to deny specific information and records in a Federal court. This would be a great improvement, in my judgment, over the existing system whereby all an agency has to do is to say, "Why, we cannot divulge this information, because it falls in the 'secrecy in the public interest,' or 'confidential for good cause found' categories."

While I am strongly in favor of this legislation and the principle which it represents, at the same time, I do not want to do anything which will jeopardize the security or well-being of the United States. Clearly, we must draw a line somewhere, and I would be the first to admit that unlimited access to each and every governmental secret or piece of information would be both foolishly unrealistic and anarchical. No, we do not want that.

To safeguard this area of national security, my bill would exempt from the disclosure requirement the following obviously sensitive areas: National defense and foreign policy secrets specifically protected by Executive order; documents relating to internal personnel rules and practices of an agency; information specifically protected by other laws; privileged private commercial information obtained from the public such as trade secrets; agency memorandums dealing solely with matters of law or policy; personnel and medical files; files of law enforcement agencies dealing with investigations, and reports of financial institutions submitted to regulatory agencies.

The measures we are discussing today have been labeled "freedom of information" legislation. What more appropriate designation could be found? A democracy will survive only as long as her people are free to determine for themselves her future course.

In the darkness of secrecy can only be found the seeds of tyranny and ultimate disaster. The right to know, one of our most cherished possessions and one of our most cherished inheritances from the Founding Fathers, can be further safeguarded by enactment of this legislation. I strongly urge such action by this subcommittee and the full House Government Operations Committee.

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STATEMENT OF HON. RICHARD D. MCCARTHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I am pleased to have this opportunity to comment in behalf of the proposed Federal public records law.

I think that my background—I once was a reporter for a daily newspaper—gives me a basis for understanding the necessity for this legislation.

Because of the statutory void in this area, I feel strongly that a Federal records law is vitally needed—and I have introduced a bill (H.R. 5020) similar to the one sponsored by my distinguished colleague, Congressman Moss.

It is a truism that a democratic society cannot function without an informed citizenry. And an informed citizenry must rely on the Federal Government for much of the information it needs.

It also is obvious that disclosure of some kinds of information by the Federal Government would be harmful to our society.

It seems to me that the Congress should attempt to strike a reasonable balance between the public's need to know what its Government is doing and the equally important need to maintain secrecy in some areas.

In my opinion, the proposed legislation—by establishing procedures for court enforcement of the right to know, and by specifying categories of information that would be exempt from disclosure requirements—would meet this objective.