

improperly withheld." Inclusion of the words "or information" appears to be inconsistent with the rest of the subsection and creates ambiguity. It is suggested that these words be deleted in the interest of clarity.

Any consideration that you may give to any one or all of these suggested changes in H.R. 5012 will be greatly appreciated.

With every good wish, I am

Sincerely,

GEORGE MILSTEAD.

STATEMENT OF HON. CHARLOTTE T. REID, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF ILLINOIS

Mr. Chairman, I am indeed delighted that your subcommittee is giving consideration to legislation dealing with the orderly disclosure of public information by Government agencies, and it is a pleasure to have an opportunity to present this brief statement concerning H.R. 5021, a bill which I introduced in the House of Representatives on February 17, 1965, to amend section 161 of the Revised Statutes with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records.

Let me say at the outset that my purpose in sponsoring this legislation is not to unduly shackle any Government agency, improperly restrict its administrative authority, or invade the constitutional privacy of any individual. On the contrary, my bill would designate eight specific categories of information which should be protected from indiscriminate disclosure. Considered in this light, it is my belief that H.R. 5021 would facilitate rather than hinder any agency in determining the proper policy for the release of public data. Although this bill may not be the perfect panacea, I do believe it will go a long way toward alleviating a rather perplexing problem.

The public records debate is by no means a new one, but it seems to me that the continuing growth of the Federal executive establishment gives the question a new perspective. The trend toward bigger government multiplies rather than diminishes the need for disclosure and the necessity for supplying information to the people. Certainly no one can dispute the fact that access to public records is vital to the basic workings of the democratic process, for it is only when the public business is conducted openly, with certain exceptions, that there can be freedom of expression and discussion of policy so vital to an honest national consensus on the issues of the day. It is essential that free people be well informed, and we need only to look at some of our international neighbors to see the unhappy consequences of the other alternative.

The need for a more definitive public records law has been apparent for a long time. The Federal Register and Code of Federal Regulations created by the Congress in 1935, although most helpful, did not provide for detailed rules for the issuance of other forms of information or for regulations to assist agencies in formulating such procedures. Recognizing this, the Congress provided section 3 of the Administrative Procedure Act of 1946, relating specifically to public information. But now we can see that the language of this section was much too broad; and the intent of Congress, which I believe was then as it is now that Federal agencies take the initiative in informing the public, can be misconstrued and misinterpreted so as to render the provision virtually ineffective. Since the question here involves the intent of Congress, and if perchance the intent of Congress as stated in section 3 is ambiguous and, therefore, subject to misinterpretation, then it is our duty to spell out this intent in more direct terms. In my judgment, the ultimate responsibility lies with the Congress, and this is one of the considerations which prompted me to introduce H.R. 5021.

In looking at the existing law, it is not difficult to see how the intent of Congress could easily be circumvented by any agency desiring to do so. Section 3 of the Administrative Procedures Act includes withholding information in the public interest, yet executive agencies have wide discretion in interpreting this term "public interest." Matters relating to the internal management of an agency are also exempt under section 3, but certainly taxpayers have a right to be concerned as to how their tax money is being spent by agency managers. Section 3 also provides that official records must be made available in accordance with published rules of the agency, but does not direct that such rules actually be published. Section 3 also refers to "matters of official record," but the Congress did not define what is meant by "official record." Section 3 also directs that public records be made available to "persons properly and directly concerned," but here again an agency has wide discretion in interpretation. Further, information may be held confidential for good cause, but this, too, is a wide discretionary area.