



An article from CQ Almanac 1958

Document Outline

House Senate

Congress in 1958 enacted legislation to bar the Executive Branch from withholding information from the public on the basis of a 1789 "housekeeping" statute that gave Government department heads control over the "custody, use and preservation" of documents.

The so-called "freedom of information" law was the first one stemming from the investigations of the Government Operations Government Information Subcommittee.

PROVISIONS – As it became law, HR 2767:

HR 2767 – Reported by House Government Operations Committee (H Rept 1461) March 6, 1958.

- Passed by voice vote of the House April 16.

S 921 – Reported by Senate Judiciary Committee (S Rept 1621) May 21.

HR 2767 – Passed by voice vote of the Senate July 31.

P.L. 619 – Signed into law Aug. 12.

Specified that the document "custody, use and preservation" clause in a 1789 "housekeeping" statute (5 USC 22) "does not authorize withholding information from the public or limiting the availability of records to the public."

BACKGROUND – The "housekeeping" statute read: "The head of each department is authorized to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use and preservation of the records, paper and property appertaining to it." The statute was derived from one adopted in 1789 and codified in 1875.

The House Government Operations Government Information Subcommittee, under Chairman John E. Moss (D Calif.), was established in 1955. The Subcommittee began its investigations late in 1955 and held hearings throughout 1956. (1956 Almanac p. [737](#))

The Moss Subcommittee continued its hearings during 1957, and on July 22 held a hearing on HR 2767 to allow opponents of the measure to express their views. All 10 executive departments were invited to send representatives to testify, but only the Post Office Department and Health,

Education and Welfare Department did so. Both departments opposed the bill, as did the other departments in written statements submitted to the Committee.

House

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COMMITTEE – Government Operations, Government Information Subcommittee.

HEARINGS – Feb. 6–7 on HR 2767.

TESTIMONY – Witnesses representing several news media and their organizations urged passage of HR 2767 to curb a "growing tendency toward secrecy through mere executive whim."

ACTION – The full Government Operations Committee March 6 reported HR 2767 (H Rept 1461). Rep. Clare E. Hoffman (R Mich.), a Subcommittee member, said it was a move to force the Government to "tell all." He proposed a three-man Federal board to pass on appeals for Government information. The Subcommittee had approved the bill Feb. 17.

Floor Action

The House April 16 passed HR 2767 by voice vote and sent it to the Senate. The House rejected recommittal motions by Hoffman and Rep. August E. Johansen (R Mich.). It also rejected six GOP-sponsored amendments which stipulated that the bill did not affect constitutional privilege or security laws or authorize the furnishing of information. The bill that passed the House was identical to the final version of the bill.

DEBATE – April 16 – John E. Moss (D Calif.) – The bill was only "a very timid first step in bringing order out of a most chaotic field" and did not affect more than 75 specific statutory grants of authority for control of information.

RELATED DEVELOPMENT – The Moss Subcommittee April 18 released a report on "Scientific Information and National Defense," in which it said "excessive secrecy regulations" administered by the Defense Department had "severely hampered the Nation's scientific progress."

Senate

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COMMITTEE – Judiciary, Constitutional Rights Subcommittee.

HEARINGS – March 6 and April 16 on S 921 – a companion bill to HR 2767.

TESTIMONY – Attorney General William P. Rogers March 6 said of the proposed bill, "I don't think it goes to the point at all," but added that he would be willing to accept it if it were amended to make it clear that it "did not impair executive privilege" to withhold information. Witnesses testifying April 16 favored the legislation.

ACTION – The full Judiciary Committee May 21 reported S 921 (S Rept 1621). It had been approved by the Subcommittee May 5.

Floor Action

The Senate July 31 passed HR 2767 by voice vote, clearing it for the President. The vote came after a companion bill, S 921, was indefinitely postponed.

Bill Signed

President Eisenhower signed HR 2767 Aug. 12. But he said it was "clear" the bill was not intended to alter power, "inherent under the Constitution, "of an executive department to withhold information "in the public interest." Moss Aug. 13 said he could not "agree with the President's contention that in enacting the 'freedom of information' bill Congress recognized any inherent executive rights or powers to withhold information. Such rights and powers exist for executive departments only when specifically granted by statute."

RELATED DEVELOPMENT – The Moss Subcommittee Aug. 12 released a report entitled "Availability of Information from Federal Departments and Agencies."

The report detailed some of the specific complaints to the Subcommittee, within the past 18 months, from Congress and the public about executive restrictions on information. The report said that in many cases, when a request for information was "backed up by insistence on a logical reason for the refusal and a demand for the citation of specific legal authority," the restriction was removed; the report listed 27 cases where "unjustifiable restrictions" were lifted. Among departments identified as withholding information were the Commerce, Defense and State Departments, the Public Housing Administration and the International Cooperation Administration.

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