

Nader Asks Federal Sanctions On Withholding Information

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By George Lardner Jr.
Washington Post Staff Writer

Citing repeated frustrations and delays in implementing the Freedom of Information Act, Ralph Nader urged Congress yesterday to approve sanctions against federal bureaucrats who abuse the law.

He told a joint hearing of three Senate subcommittees that the "right to know" supposedly advanced by the 1966 law has been thwarted repeatedly by bureaucratic tactics ranging from costly search and copying fees to flat refusals to accept court rulings as precedents for making information public.

At the bottom of the problem, Nader said, is the fact that current laws make federal officials accountable, and sometime criminally liable, only for releasing information. By contrast, he said, "the great failure of the Freedom of Information Act has been that it does not hold federal officials accountable for not disclosing information."

Cataloguing some of the abuses that have resulted, Nader singled out the Department of Agriculture which, he said, requested prepayment of \$85,000 in one instance and \$91,840 in another for access to documents. Turning to the Social Security Administration, he said its officials once denied a trade magazine editor nursing home reports "of an identical nature" to eight nursing home reports the same editor had already obtained as a result of court action. As a result, the editor had to go to court again.

The only lasting cure, Nader

maintained, is to hold government officials individually responsible for illegal decisions against disclosure. He suggested sanctions such as mandatory suspension or termination of federal employment and, "in severe circumstances, where actual harm to health or safety has resulted," even criminal penalties.

Nader said, for example, that he felt criminal penalties would be appropriate if government officials could be shown to have deliberately withheld reports on "hazardous contamination of meat products" which reached the public and harmed consumers.

Yale University law professor Alexander M. Bickel, a consultant to the Senate Subcommittee on the Separation of Powers, voiced concern that Nader's proposals could lead to a climate of fear such as the late Sen. Joseph McCarthy (R-Wis.) once engendered. Nader disagreed and said that any sanctions should be accompanied by "due process safeguards." Citing McCarthy's penchant for making charges on the basis of secret documents and sources, Nader also maintained that "freedom of information would have exposed him" and even denied him his heyday.

Testifying on the doctrine of executive privilege at the same hearing, Raoul Berger, a leading legal scholar on the issue, called it "a myth" and said Congress would be wasting its time on restrictive legislation. He advised, instead, that Congress force a showdown in the courts by insisting on the testimony of White

House aides—such as Counsel to the President John W. DeLoach III—in the Senate's Watergate investigation.

Dismissing Attorney General Richard G. Kleindienst's sweeping claims of executive privilege as dusty "executive boilerplate" that has already been refuted, Berger said he could forgive the Attorney General for resurrecting old arguments, but not for his "appalling statement" Tuesday that Congress needs a "peach a President or a witness—to impeach a President or a other official.

Rep. William S. Moorhead (D-Pa.), chairman of the House Government Information Subcommittee, told the senator that he considered Kleindienst's claims "ironic" in light of the fact that his confirmation last year as Attorney General came only after Mr. Nixon "permitted" White House aide Peter Flanagan to appear before the Senate Judiciary Committee regarding a controversy that was holding up Kleindienst's nomination.

"If the 'divine right' doctrine had been in effect last year," Moorhead said, "it might be that someone else might be warming the seat of the Attorney General's chair today."