

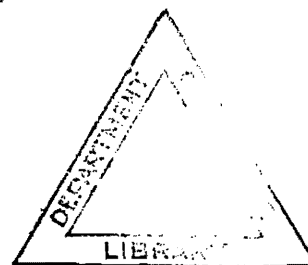
"FREE FLOW OF INFORMATION
FROM THE GOVERNMENT"

ADDRESS

BY

HONORABLE HERBERT BROWNELL, JR.
ATTORNEY GENERAL OF THE UNITED STATES

Prepared for Delivery
Before the
Associated Press
Managing Editors Association



Chicago, Illinois
Friday, November 6, 1953
10:30 AM CST

It is a real pleasure this morning to appear before the Associated Press Managing Editors Association since it affords an opportunity to speak on a subject which I am confident is of great interest to you all -- "Free Flow of Information From the Government."

We, in the Department of Justice, are very much aware of the great importance of seeing to it that the obstacles to the free flow of information are kept to an absolute minimum. Secrecy in law enforcement inevitably leads to evil results and, almost as important to public confidence in government, to the appearance of evil. As an example of our efforts, I would like to call attention to some of the procedures which we established. At the very outset of the new Administration, we provided that any pardons or commutations of sentence shall be a matter of public record. Throughout the prior administration, these executive actions were taken secretly, for political purposes and over the objection of the Office of the Pardon Attorney.

We also started the policy of making a matter of public record matters which our predecessors buried in secrecy, such as settlements of all types of cases which we handle and involve monetary considerations, such as tax claims, damage suits and Alien Property settlements.

We do not contend that we have achieved perfection in our efforts to provide a full flow of information. But we are working on it and each day find new ways to do our part.

Your teletype circuits are now carrying a dispatch from Washington which has a very important impact on your future operations.

President Eisenhower has just announced that he is revoking former President Truman's much criticized Executive Order withholding many types of information from public scrutiny. At the same time he is issuing his new Freedom of Information Executive Order entitled "SAFEGUARDING OFFICIAL INFORMATION IN THE INTEREST OF THE DEFENSE OF THE UNITED STATES."

I feel confident that when you have examined it you will join me in this conclusion:

It attains the required balance between the need to protect certain types of defense information, and the need for keeping the citizens of a Republic as fully informed as possible concerning what their Government is doing.

You, the Managing Editors of the Associated Press, for years have been giving thought to the problem of attaining proper balance. In those years, you have exhibited an awareness of the pressing need of safeguarding some kinds of official information in the interests of our common defense. And you have made great progress in the fight to prevent censorship over the free flow of information from the Government.

President Eisenhower considers the free flow of information from the Government to the people to be basic to the good health of the Nation -- just as the free circulation of blood in the human body is basic to the good health of the individual.

Through his new order, he has reached his goal -- the elimination of unnecessary obstacles which interfere with the activities of the press, radio, television, and other media of public information in

bringing to the people knowledge of the plans, policies, and daily operations of their government.

The President recently said that the free press in this Nation "helps arm our people with the knowledge and understanding without which free choice, free government, free men, could not be."

It was on this basis that he instructed the Attorney General early this year to make a study for the purpose of advising him as to how the flow of information could be increased without jeopardizing our national defense.

Confronting us was Executive Order No. 10290, of September 24, 1951, and its accompanying regulations. They established minimum standards for classifying and handling security information throughout the executive branch of the Government.

This order was severely criticized by the press and other interested groups for imposing a form of censorship, unwarranted in peace time. President Truman was urged to rescind or modify the order on the ground that it placed freedom of the press in jeopardy.

In March of this year, I received a letter from Mr. Norman E. Isaacs, President of your Organization, describing the resolution adopted by your membership calling for revocation of Executive Order No. 10290 of September 24, 1951. That Order was entitled "Prescribing Regulations Establishing Minimum Standards For the Classification, Transmission, and Handling, by Departments and Agencies of the Executive Branch, of Official Information Which Requires Safeguarding in the interest of the Security of the United States."

Your resolution states that "the peoples' right to know about their own government is a right indispensable to the maintenance of all other rights of a free people." Your resolution goes on to state that the disclosure of all public transactions is the foundation of our freedom and the surest safeguard against corruption and malfeasance, tyranny and oppression. I believe that the most eloquent testimony of how fully and unreservedly the President agrees with you is contained in this new Executive Order.

As manifested by the continuous and wide-spread criticism which it has received, the old Executive Order failed to attain the proper balance between the needs of defense and the need for a free press.

The old Order and its Regulations were open to a number of objections from the standpoint of sound public policy.

They used vague and broad descriptions of security information. They allowed government officials to withhold many types of information which could be publicly disclosed without endangering the national safety. There was a tendency to follow the dangerous policy heretofore used by dictator nations of authorizing government officials to use the term "National Security" indiscriminately, and thereby throw a veil of secrecy over many items which historically have been open to the public in this country.

They also authorized classification of too many kinds of documents as "Security Information." This tended to promote a careless attitude upon the part of some Government employees who handle matters which should be kept secret because of their vital defense importance.

And finally, the old Order and Regulations tended to build up a barrier between Government and the press, which was inimical to our traditional freedom of the press.

Since June 17, 1953, when President Eisenhower issued the text of a proposed new order, press, radio, television and other media, together with Government departments and agencies, have submitted comments, criticisms and suggestions. They had accepted the President's invitation to participate in the process of thinking which led to the final draft adopted today.

By designation of the President, the Attorney General was the clearing house for coordination of these comments and suggestions. The responses reflected a very active interest and were given very careful consideration as the drafting process went forward.

Conferences were held not only with government officials but with representatives of the press and other media of information.

Most helpful in our studies were the criticisms and suggestions of Mr. Isaacs. Mr. James S. Pope, former chairman, and Mr. J. R. Wiggins, present chairman, of the American Society of Newspaper Editors' Freedom of Information Committee, advised and conferred with us in a most helpful manner. I would be remiss if I overlooked the on-the-scene activities of Mr. Clark R. Mollenhoff, Washington correspondent for the Des Moines Register and Tribune, who assisted the A.S.N.E. by digging out examples of abuses and proposing remedies.

This cooperative effort, I am sure, made it possible to achieve that delicate balance between protecting defense information and keeping the people informed.

Now I would like to discuss more specifically the provisions of the new Order which becomes effective December 15, 1953.

One of your major criticisms in the past was that you had no place to go (except to the very officials who withheld information) to make suggestions or complaints when you believed the old Order was being abused. Section 16 of the new Order provides for a review to insure that information is not improperly withheld. The Section provides that the President shall designate a member of his staff who shall receive, consider, and take action upon suggestions or complaints from non-Governmental sources relating to the operation of this Order.

The other major achievements through the new Order are:

First. Authority to classify information is withdrawn completely from 28 agencies. This means that these agencies may not stamp "Top Secret," "Secret," or "Confidential" on information which they originate. It is certainly obvious that, in the normal course of events, the American Battle Monuments Commission, for example, or the Commission of Fine Arts, would not be likely to originate information which would require safeguarding in the interests of the defense of the United States.

Second. In 17 other Government agencies, only the head of the agency himself may classify information originating in his agency. He is strictly prohibited from delegating this authority to anyone else. This means that such authority can be delegated only by the heads of agencies which normally originate so much information requiring protection that the head of the agency couldn't possibly classify it all personally. Even in these agencies, however, the delegation of the authority to classify is severely limited. By these two provisions we have recognized the validity

of the criticism levelled at the old Order for its failure to limit the authority to classify information to agencies which normally originate appreciable quantities of information actually requiring protection. In this way, we have gotten away from the "shotgun approach" which characterized the old Order.

Third. One of the four categories of information which were included in the old Order is completely eliminated, namely, "Restricted." This was the lowest of the four categories, and it had become a huge "catch-all." When Government officials found it difficult to decide whether or not to classify a document, there was a tendency to classify it "Restricted." They did not stop to think that by classifying a document "Restricted," they were removing it from the public domain just as effectively and just as permanently as if they stamped it "Top Secret." By eliminating the category "Restricted," we intend to eliminate the occurrence of such over-classification. Also, we will create more respect for the classification of material which really should be carefully protected.

Fourth. Agency heads must establish a genuinely effective system for reviewing classified material, so that when the reasons for its being classified have passed, it will be "declassified."

Fifth. There must be more explicit definitions and examples of the kinds of information which should be classified, instead of the broad descriptions which were contained in the old Order. This provision, also, recognizes the justice of the resolution to this effect which was passed by your Association.

Sixth. In addition to the provision that a representative of the President shall receive and take action on suggestions and complaints, there are other safeguards set up by the new Order. This means that the decisions of agency heads and other classifying authorities will be reviewed by some other person in the same agency and by still another outside the agency to determine whether or not material can be downgraded or declassified. It also means that the classification operations of an agency will be reviewed independently by persons outside the agency, namely representatives of the National Security Council.

I believe firmly that we now have the mechanics for prevention of unnecessary withholding of information. But we must not stop there. We must make certain that the tools provided are properly utilized.

It is at this point that you again become an important participant, as do other representatives of the free American press, radio and TV. You must seek out and oppose any operation of Government which places a barrier in the way of free flow of information.

I do not wish to give the impression that the new Order sacrifices even the slightest degree of security in providing for more information to be made available to the public. You wouldn't want that. The President doesn't want that. Quite on the contrary, the new Order is a better security Order than the old Order, because it provides more stringent protection for information which really needs to be protected.

By the kind of cooperation and mutual trust which characterized our dealings with the press in our new approach to an old problem, we can demonstrate to all the world the vivid contrast between our system of government, which believes in and practices freedom of the press, and the Communist system, which regards the concept of freedom of information as a threat to the continuance of its tyrannical rule.