"(6) disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;

"(7) accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.

In the event of such discharge or escape of oil or oily mixture, as is referred to in subsection 3(c) and section 4 of this Act, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

"(d) Each operation described in subsection 9(c) of the Act shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship.

"(e) Oil record books shall be kept in such manner and for such length of time as set forth in the regulations prescribed by the Secretary.

"(f) If any person fails to comply with the requirements imposed by or under this section, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 and if any person makes an entry in any records kept in accordance with this Act or regulations prescribed thereunder by the Secretary which is to his knowledge false or misleading in any material particular, he shall be liable on conviction to a fine not exceeding $1,000 nor less than $500 or imprisonment for a term not exceeding six months, or both."

(7) Section 10 (33 U.S.C. 1009) is amended by changing the phrase at the end thereof from "and 9" to "9, and 12."

(8) Section 12 (33 U.S.C. 1011) is amended to read as follows:

"SEC. 12. (a) All sea areas within fifty miles from the nearest land shall be prohibited zones, subject to extensions or reduction effectuated in accordance with the terms of the Convention, which shall be published in regulations prescribed by the Secretary.

"(b) With respect to the reduction or extension of the zones described under the terms of the Convention, the Secretary shall give notice thereof by publication of such information in Notices to Mariners issued by the United States Coast Guard and United States Navy."

(9) Section 13 (33 U.S.C. 1012) is repealed.

(10) Section 17 (33 U.S.C. 1015) is amended to read as follows:

"SEC. 17. (a) This Act shall become effective upon the date of its enactment or upon the date the amended Convention becomes effective as to the United States, whichever is the later date.

"(b) Any rights or liabilities existing on the effective date of this Act shall not be affected by the enactment of this Act. Any procedures or rules or regulations in effect on the effective date of this Act shall remain in effect until modified or superseded under the authority of this Act. Any reference in any other law or rule or regulation prescribed pursuant to law to the "International Convention for the Prevention of the Pollution of the Sea by Oil, 1954," shall be deemed to be a reference to that Convention as revised by the "Amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954," which were adopted by a Conference of Contracting Governments convened at London on April 11, 1962. Any reference in any other law or rule or regulation prescribed pursuant to law to the "Oil Pollution Act, 1961," approved August 30, 1961 (33 U.S.C. 1001–1015), shall be deemed to be a reference to that Act as amended by this Act."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE ADMINISTRATION AND DEVELOPMENT OF PENNSYLVANIA AVENUE AS A NATIONAL HISTORIC SITE

The Clerk called the joint resolution (H.J. Res. 1030) to provide for the administration and development of Pennsylvania Avenue as a national historic site, and for other purposes.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, reserving the right to object, I would like to have an explanation of the bill from the key sponsor, and interrogate the gentleman.

Mr. SAYLOR. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

VARIATION OF 40-HOUR WORKWEEK OF FEDERAL EMPLOYEES FOR EDUCATIONAL PURPOSES

The Clerk called the bill (S. 1495) to permit variation of the 40-hour workweek of Federal employees for educational purposes.

There being no objection, the Clerk read the bill, as follows:

S. 1495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 604(a) of the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 944(a)), is amended by adding a new paragraph to read as follows:

"(3) Notwithstanding the provisions of paragraph (2) of this subsection, the head of each such department, establishment, or agency and of the municipal government of the District of Columbia may establish special tours of duty (of not less than forty hours) without regard to the requirements of such paragraph in order to enable officers and employees to take courses in nearby colleges, universities, or other educational institutions which will equip them for more effective work in the agency. No premium compensation shall be paid to any officer or employee solely because his special tour of duty established pursuant to this paragraph results in his working on a day or at a time of day for which premium compensation is otherwise authorized."

The bill was ordered to be read a third time, was read the third time, and passed and a motion to reconsider was laid on the table.

AD HOC SUBCOMMITTEE ON THE HANDICAPPED OF THE COMMITTEE ON EDUCATION AND LABOR

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the ad hoc Subcommittee on the Handicapped of the Committee on Education and Labor may be permitted to sit during general debate today while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CALL OF THE HOUSE

Mr. PELLY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 146]

Abbitt	Evins	Moore
Adair	Fallon	Moorhead
Addabbo	Farbstein	Morrison
Andrews, Glenn	Feighan	Multer
Andrews, N. Dak.	Fino	Murray
Annunzio	Flood	Nix
Ashley	Flynt	O'Brien
Berry	Fogarty	Olson, Minn.
Blatnik	Fraser	O'Neill, Mass.
Bolling	Gilbert	Passman
Bolton	Gilligan	Pepper
Bow	Goodell	Pirnie
Bray	Grabowski	Powell
Brooks	Gray	Price
Brown, Ohio	Gurney	Purcell
Cahill	Hagan, Ga.	Quillen
Callaway	Halleck	Reifel
Celler	Hamilton	Resnick
Clancy	Hanley	Roberts
Clausen, Don H.	Hansen, Iowa	Rodino
Cohelan	Harsha	Rooney, N.Y.
Collier	Harvey, Ind.	Rooney, Pa.
Conyers	Helstoski	Rostenkowski
Cooley	Horton	Roudebush
Corman	Howard	Scheuer
Craley	Jennings	Scott
Cramer	Jonas	Shipley
Culver	Jones, N.C.	Springer
Cunningham	Keogh	Stafford
Curtin	King, N.Y.	Steed
Daddario	Kirwan	Stephens
Davis, Ga.	Kluczynski	Tenzer
Delaney	Laird	Thomas
Dent	Landrum	Toll
Diggs	Leggett	Trimble
Dingell	Lennon	Walker, Miss.
Donohue	Long, La.	Watson
Duncan, Oreg.	McDade	Whalley
Duncan, Tenn.	McDowell	Williams
Dwyer	McEwen	Willis
Ellsworth	Mackie	Wilson, Bob
Everett	Macdonald	Wolff
	Martin, Mass.	Wright
	May	
	Minshall	

The SPEAKER. On this rollcall 300 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CLARIFYING AND PROTECTING THE RIGHT OF THE PUBLIC TO INFORMATION

Mr. MOSS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1160) to amend section 3 of the Administrative Procedure Act, chapter 324 of the act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), is amended to read as follows:

"SEC. 3. Every agency shall make available to the public the following information:

"(a) PUBLICATION IN THE FEDERAL REGISTER.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public

may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided*, That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

"(C) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

"(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

"(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

"(g) PRIVATE PARTY.—As used in this section, 'private party' means any party other than an agency.

"(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act."

The SPEAKER. Is a second demanded?

Mr. REID of New York. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MOSS. I yield myself such time as I may consume.

Mr. Speaker, our system of government is based on the participation of the governed, and as our population grows in numbers it is essential that it also grow in knowledge and understanding. We must remove every barrier to information about—and understanding of—Government activities consistent with our security if the American public is to be adequately equipped to fulfill the ever more demanding role of responsible citizenship.

S. 1160 is a bill which will accomplish that objective by shoring up the public right of access to the facts of government and, inherently, providing easier access to the officials clothed with governmental responsibility. S. 1160 will grant any person the right of access to official records of the Federal Government, and, most important, by far the most important, is the fact that this bill provides for judicial review of the refusal of access and the withholding of information. It is this device which expands the rights of the citizens and which protects them against arbitrary or capricious denials.

Mr. Speaker, let me reassure those few who may have doubts as to the wisdom of this legislation that the committee has, with the utmost sense of responsibility, attempted to achieve a balance between a public need to know and a necessary restraint upon access to information in specific instances. The bill lists nine categories of Federal documents which may be withheld to protect the national security or permit effective operation of the Government but the burden of proof to justify withholding is put upon the Federal agencies.

That is a reasonable burden for the Government to bear. It is my hope that this fact, in itself, will be a moderating influence on those officials who, on occasion, have an almost proprietary attitude toward their own niche in Government.

Mr. Speaker, I must confess to disquiet at efforts which have been made to paint the Government information problems which we hope to correct here today in the gaudy colors of partisan politics. Let me now enter a firm and unequivocal denial that that is the case. Government information problems are political problems—bipartisan or nonpartisan, public problems, political problems but not partisan problems.

In assuming the chairmanship of the Special Government Information Subcommittee 11 years ago, I strongly emphasized the fact that the problems of concern to us did not start with the Eisenhower administration then in power nor would they end with that administration. At a convention of the American Society of Newspaper Editors some 10 years ago, I said:

> The problem I have dealt with is one which has been with us since the very first administration. It is not partisan, it is political only in the sense that any activity of government is, of necessity, political . . . No one party started the trend to secrecy in the Federal Government. This is a problem which will go with you and the American people as long as we have a representative government.

Let me emphasize today that the Government information problems did not start with President Lyndon Johnson. I hope, with his cooperation following our action here today, that they will be diminished. I am not so naive as to believe they will cease to exist.

I have read stories that President Johnson is opposed to this legislation. I have not been so informed, and I would be doing a great disservice to the President and his able assistants if I failed to acknowledge the excellent cooperation I have received from several of his associates in the White House.

I am pleased to report the fact of that cooperation to the House today. It is especially important when we recognize how very sensitive to the institution of the Presidency some of these information questions are. Despite this, I can say to you that no chairman could have received greater cooperation.

We do have pressing and important Government information problems, and I believe their solution is vital to the future of democracy in the United States.

The individual instances of governmental withholding of information are not dramatic. Again, going back to statements made early in my chairmanship of the Special Subcommittee on Government Information, I repeatedly cautioned those who looked for dramatic instances that the problems were really the day-to-day barriers, the day-to-day excesses in restriction, the arrogance on occasion of an official who has a proprietary attitude toward Government. In fact, at the subcommittee's very first hearing I said:

> Rather than exploiting the sensational, the subcommittee is trying to develop all the pertinent facts and, in effect, lay bare the attitude of the executive agencies on the issue of whether the public is entitled to all possible information about the activities, plans and the policies of the Federal Government.

Now 11 years later I can, with the assurance of experience, reaffirm the lack of dramatic instances of withholding. The barriers to access, the instances of arbitrary and capricious withholding are dramatic only in their totality.

During the last 11 years, the subcommittee has, with the fullest cooperation from many in Government and from representatives of every facet of the news media, endeavored to build a greater awareness of the need to remove unjustifiable barriers to information, even if that information did not appear to be overly important. I suppose one could regard information as food for the intellect, like a proper diet for the body. It does not have to qualify as a main course to be important intellectual food. It might be just a dash of flavor to sharpen the wit or satisfy the curiosity, but it is as basic to the intellectual diet as are proper seasonings to the physical diet.

Our Constitution recognized this need by guaranteeing free speech and a free press. Mr. Speaker, those wise men who wrote that document—which was then and is now a most radical document—could not have intended to give us empty rights. Inherent in the right of free speech and of free press is the right to know. It is our solemn responsibility as inheritors of the cause to do all in our power to strengthen those rights—to give them meaning. Our actions today in this House will do precisely that.

The present law which S. 1160 amends is the so-called public information section of the 20-year-old Administrative Procedure Act. The law now permits withholding of Federal Government records if secrecy is required "in the public interest" or if the records relate "solely to the internal management of an agency." Government information also may be held confidential "for good cause found." Even if no good cause can be found for secrecy, the records will be made available only to "persons properly and directly concerned." These phrases are the warp and woof of the blanket of secrecy which can cover the day-to-day administrative actions of the Federal agencies.

Neither in the Administrative Procedure Act nor its legislative history are these broad phrases defined, nor is there a recognition of the basic right of any person—not just those special classes "properly and directly concerned"—to gain access to the records of official Government actions. Above all, there is no remedy available to a citizen who has been wrongfully denied access to the Government's public records.

S. 1160 would make three major changes in the law.

First. The bill would eliminate the "properly and directly concerned" test of who shall have access to public records, stating that the great majority of records shall be available to "any person." So that there would be no undue burden on the operations of Government agencies, reasonable access regulations would be established.

Second. The bill would set up workable standards for the categories of records which may be exempt from public disclosure, replacing the vague phrases "good cause found," "in the public interest," and "internal management" with specific definitions of information which may be withheld.

Third. The bill would give an aggrieved citizen a remedy by permitting him to appeal to a U.S. district court if official records are improperly withheld. Thus, for the first time in our Government's history there would be proper arbitration of conflicts over access to Government documents.

S. 1160 is a moderate bill and carefully worked out. This measure is not intended to impinge upon the appropriate power of the Executive or to harass the agencies of Government. We are simply attempting to enforce a basic public right—the right to access to Government information. We have expressed an intent in the report on this bill which we hope the courts will read with great care.

While the bill establishes a procedure to secure the right to know the facts of Government, it will not force disclosure of specific categories of information such as documents involving true national security or personnel investigative files.

This legislation has twice been passed by the Senate, once near the end of the 88th Congress too late for House action and again last year after extensive hearings. Similar legislation was introduced in the House, at the beginning of the 89th Congress, by myself and 25 other Members, of both political parties, and comprehensive hearings were held on the legislation by the Foreign Operations and Government Information Subcommittee. After the subcommittee selected the Senate version as the best, most workable bill, it was adopted unanimously by the House Government Operations Committee.

S. 1160 has the support of dozens of organizations deeply interested in the workings of the Federal Government—professional groups such as the American Bar Association, business organizations such as the U.S. Chamber of Commerce, committees of newspapermen, editors and broadcasters, and many others. It has been worked out carefully with cooperation of White House officials and representatives of the major Government agencies, and with the utmost cooperation of the Republican members of the subcommittee; Congressman OGDEN R. REID, of New York; Congressman DONALD RUMSFELD, of Illinois; and the Honorable ROBERT P. GRIFFIN, of Michigan, now serving in the Senate. It is the fruit of more than 10 years of study and discussion initiated by such men as the late Dr. Harold L. Cross and added to by scholars such as the late Dr. Jacob Scher. Among those who have given unstintingly of their counsel and advice is a great and distinguished colleague in the House who has given the fullest support. Without that support nothing could have been accomplished. So I take this occasion to pay personal tribute to Congressman WILLIAM L. DAWSON, my friend, my confidant and adviser over the years.

Among those Members of the Congress who have given greatly of their time and effort to develop the legislation before us today are two Senators from the great State of Missouri, the late Senator Thomas Henning and his very distinguished successor, Senator EDWARD LONG who authored the bill before us today.

And there has been no greater champion of the people's right to know the facts of Government than Congressman DANTE B. FASCELL. I want to take this opportunity to pay the most sincere and heartfelt tribute to Congressman FASCELL who helped me set up the Special Subcommittee on Government Information and served as a most effective and dedicated member for nearly 10 years.

The list of editors, broadcasters and newsmen and distinguished members of the corps who have helped develop the legislation over these 10 years is endless.

But I would particularly like to thank those who have served as chairmen of Freedom of Information Committees and various organizations that have supported the legislation.

They include James Pope, formerly of the Louisville Courier-Journal, J. Russell Wiggins of the Washington Post, Herbert Brucker of the Hartford Courant, Eugene S. Pulliam of the Indianapolis News, Creed Black of the Chicago Daily News, Eugene Patterson of the Atlanta Constitution, each of whom served as chairman of the American Society of Newspaper Editors Freedom of Information Committee, and John Colburn of the Wichita Eagle & Beacon who served as chairman of both the ASNE committee and the similar committee of the American Society of Newspaper Publishers.

Also Mason Walsh of the Dallas Times Herald, David Schultz of the Redwood City Tribune, Charles S. Rowe of the Fredericksburg Free Lance Star, Richard D. Smyser of the Oak Ridge Oakridger, and Hu Blonk of the Wenatchee Daily World, each of whom served as chairman of the Associated Press Managing Editors Freedom of Information Committee; V. M. Newton, Jr., of the Tampa Tribune, Julius Frandsen of the United Press International, and Clark Mollenhoff of the Cowles Publications, each of whom served as chairman of the Sigma Delta Chi Freedom of Information Committee, and Joseph Costa, for many years the chairman of the National Press Photographers Freedom of Information Committee. The closest cooperation has been provided by Stanford Smith, general

manager of the American Newspaper Publishers Association and Theodore A. Serrill, executive vice president of the National Newspaper Association.

Mr. Speaker, I strongly urge the favorable vote of every Member of this body on this bill, S. 1160.

Mr. KING of Utah. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I am happy to yield to the gentleman.

Mr. KING of Utah. Mr. Speaker, I commend the distinguished gentlemen now in the well for the work he has done in bringing this bill to fruition today. The gentleman from California is recognized throughout the Nation as one of the leading authorities on the subject of freedom of information. He has worked for 12 years diligently to bring this event to pass.

Mr. Speaker, I wish to take this opportunity to voice my support of S. 1160, the Federal Public Records Act, now popularly referred to as the freedom of information bill. Let me preface my remarks by expressing to my distinguished colleague from California [Mr. Moss], chairman of the Government Information Subcommittee of the House of Representatives, and to the distinguished gentleman from Missouri, Senator EDWARD LONG, chairman of the Administrative Practices and Procedure Subcommittee of the Senate, for their untiring efforts toward the advancement of the principle that the public has not only the right to know but the need to know the facts that comprise the business of Government. Under the expert guidance of these gentlemen, an exhaustive study has been conducted and a wealth of information gleaned. Equipped with a strong factual background and an understanding of the complex nature of the myriad of issues raised, we may proceed now to consider appropriate legislative action within a meaningful frame of reference.

S. 1160, the Federal Public Records Act, attempts to establish viable safeguards to protect the public access to sources of information relevant to governmental activities. Protection of public access to information sources was the original intent of the Congress when it enacted into law the Administrative Procedure Act of 1946. Regretfully, in the light of the experience of the intervening 20 years, we are confronted with an ever-growing accumulation of evidence that clearly substantiates the following conclusion: the overall intent of the Congress, as embodied in the Administrative Procedure Act of 1946, has not been realized and the specific safeguards erected to guarantee the right of public access to the information stores of Government appear woefully inadequate to perform the assigned tasks. The time is ripe for a careful and thoughtful reappraisal of the issues inherent in the right to know concept; the time is at hand for a renewal of our dedication to a principle that is at the cornerstone of our democratic society.

What are some of the major factors that have contributed to this widespread breakdown in the flow of information from the Government to the people? The free and total flow of information has been stemmed by the very real and very grave cold war crises that threaten our Nation. It is apparent that if we are to survive as a free nation, we must impose some checks on the flow of data—data which could provide invaluable assistance to our enemies.

The demands of a growing urban, industrial society has become greater both in volume and in complexity. The individual looks to his Government more and more for the satisfactory solution of problems that defy his own personal resources. The growth of the structure of Government commensurate with the demands placed upon it has given rise to confusion, misunderstanding, and a widening gap between the principle and the practice of the popular right to know. Chairman Moss has summarized this dilemma when he said "Government secrecy tends to grow as Government itself grows."

There are additional factors that must be considered. Paradoxically, the broad and somewhat obscure phraseology of section 3 of the public information section of the Administrative Procedure Act has, in effect, narrowed the stream of data and facts that the Federal agencies are and have been willing to release to the American people. Agency personnel charged with the responsibility of interpreting and enforcing the provisions of section 3 have labored under a severe handicap; their working guidelines have made for a host of varying interpretations and fostered numerous misinterpretations. Chaos and confusion have nurtured a needless choking off of information disclosure. Without realistic guidelines within which to operate, officials have exercised extreme caution in an effort to avoid the charges of premature, unwise, or unauthorized disclosure of Government information. Remedial action is called for. The primary purpose underlying S. 1160 is a long overdue and urgently needed clarification of the public information provisions of the Administrative Procedure Act.

Finally, the present condition of nonavailability of public information has perhaps been encouraged by a disregard by the American people of this truism: the freedoms that we daily exercise—the freedoms that are the foundation of our democratic society—were not easily obtained nor are they easily retained. Inroads and encroachments—be they overt or covert, be they internal or external—must be effectively guarded against. For freedoms once diminished are not readily revitalized; freedoms once lost are recovered with difficulty.

Thus far I have discussed some of the major forces that are simultaneously working toward increasing the gap that separates the principle and the practice of the people's right to know the affairs of their Government. The overriding importance of the Federal Public Records Act currently before us can be underscored by a brief examination of the highwater marks that loom large in the historical background of the present dispute concerning the legitimate bounds of the people's right to know the affairs of Government.

If the people are to be informed, they must be first accorded the right to sources of knowledge—and one of the initial queries posed by Americans and their English forebears alike was: What is the nature of the business of the legislative branch of government? Accounts of legislative activities were not always freely known by those whose destinies they were to shape. At the close of the 17th century, the House of Commons and the House of Lords had adopted regulations prohibiting the publishing of their votes and their debates. Since the bans on the publishing of votes and debates initially provided a haven of refuge from a Sovereign's harsh and often arbitrary reprisals, the elimination of these bans was difficult. Privacy was viewed as offering a means of retaining against all challenges—be they from the Sovereign or an inquiring populace—the prerogatives that the Houses of Parliament had struggled to secure. Not until the late 18th century did the forces favoring public accountability cause significant changes in the milieu that surrounded parliamentary proceedings. Although restrictive disclosure measures heretofore imposed were never formally repealed, their strict enforcement was no longer feasible. The forces championing the popular right to know had gained considerable strength and the odds were clearly against Parliament's retaining many of its jealously guarded prerogatives. To save face, both Houses yielded to the realities of the situation with which they were confronted and allowed representatives of the press—the eyes and ears of the people—to attend and recount their deliberations.

The annals recording the history of freedom of the press tell of dauntless printers who sought means of circumventing the bans on publicizing legislative records. As early as 1703, one Abel Boyer violated the letter and the spirit of the announced restrictions when he published monthly the Political State of Great Britain. He did so, however, without incurring the full measure of official wrath. By omitting the full names of participants in debate, and by delaying publication of the accounts of a session's deliberations until after it had adjourned, he was able to achieve his purpose. Others sought to foil the intent and dilute the effectiveness of the restrictions by revealing the activities of a committee of the House of Commons. Lest others follow similar suit, the Commons soon after passed a resolution stating:

> No news writers do presume in their letters or other papers that they disperse as minutes, or under any denomination, to intermeddle with the debates, or any other proceedings of this House, or any committee thereof.

Those who insisted on defying official pleasure were quickly brought to task. Many were imprisoned, many were fined; some were released having sworn to cease and desist from further offensive actions. Spurred by public demand for additional news, printers and editors devised a fictitious political body and proceeded to relate fictional debates. Their readers were, nevertheless, aware that the accounts were those of Parliament. Public

demand for the right to know the information of Government had gained a momentum that could not be slowed. In 1789, the public point of view—a point of view that demanded the removal of the shackles of secrecy—because the parliamentary modus operandi. For in that year, one James Perry, of the Morning Chronicle, succeeded in his efforts to have news reporters admitted to Parliament and was able to provide his readers with an account of the previous evening's business. The efforts of Parliament to exclude representatives of the news media were channeled in new directions—with members speaking out against printers and editors, who in their opinion, were unfairly misrepresenting individual points of view; objectivity in reporting Parliament's business became their primary concern.

In the Colonies, too, Americans conducted determined campaigns paralleling those waged in England. Colonial governments demonstrated a formidable hostility toward those who earnestly believed that the rank-and-file citizenry was entitled to a full accounting by its governing bodies. The power that knowledge provides was fully understood; by some it was feared. In 1671, in correspondence to his lords commissioners, Governor Berkeley, of Virginia, wrote:

> I thank God, there are no free schools nor printing; and I hope we shall not have these hundred years; for learning has brought disobedience, and heresy, and sects into the world, and printing has divulged them, and libels against the best Government. God keep us from both.

In 1725, Massachusetts newspaper printers were "ordered upon their peril not to insert in their prints anything of the Public Affairs of this province relating to the war without the order of the Government." Forty-one years were to pass until, in 1776, a motion offered by James Otis was carried and the proceedings of the Massachusetts General Court were opened to the public on the occasion of the debates surrounding the repeal of the onerous Stamp Act.

The clouds of secrecy that hovered over the American Colonies were not quickly dispelled; vestiges of concealment lingered on until well into the 18th century.

The deliberations that produced the Constitution of the United States were closed. Early meetings of the U.S. Senate were not regularly opened to the public until February of 1794. Some 177 years ago, the House of Representatives heatedly debated and finally tabled a motion that would have excluded members of the press from its sessions. It was the beginning of the 19th century before representatives of the press were formally granted admission to the Chambers of the Senate and the House of Representatives.

While the American people have long fought to expand the scope of their knowledge about Government, their achievements in this direction are being countered by the trend to delegate considerable lawmaking authority to executive departments and agencies. Effective protective measures have not always accompanied the exercise of this newly located rulemaking authority.

Access to the affairs of legislative bodies has become increasingly difficult thanks to another factor: the business of legislatures is being conducted in the committees of the parent body—committees that may choose to call an executive session and subsequently close their doors to the public.

In short, the trend toward more secrecy in government may be seen in the legislative branch. Can this trend be evidenced in the other two branches?

The scope of popular interest in Government operations has run the full gamut. The public has persevered in its assertion that it has an unquestionable right to the knowledge of the proceedings that constitute the legislative as well as the judicial and executive functions of the Government.

One of the greatest weapons in the arsenal of tyranny has been the secret arrest, trial, and punishment of those accused of wrongdoing. Individual liberties, regardless of the lipservice paid them, become empty and meaningless sentiments if they are curtailed or suspended or ignored in the darkness of closed judicial proceedings. The dangers to man's freedoms that lurk in secret judicial deliberations were recognized by the insurgent barons who forced King John to grant as one of many demands that "the King's courts of justice shall be stationary; and shall no longer follow his person; they shall be open to everyone; and justice shall no longer be sold, refused, or delayed by them." This promise was remembered by that generation of Americans that devised our scheme of government. To guarantee the optimum exercise and enjoyment by every man of his fundamental and essential liberties, the authors of the Bill of Rights incorporated these guarantees in the sixth amendment:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.

Contemporary developments lend support to the thesis that the right of the public to be admitted to judicial proceedings is being undermined. More and more courtrooms are being closed to the people on the grounds that the thorough and open discussion of a broad category of offenses would be repugnant to society's concensus of good taste. What is more, court powers that were once exercised within the framework of due process guarantees are being transferred to quasi-judicial agencies, before which many of the due process guarantees have been cast by the wayside.

What is the current status of information availability within the executive departments and agencies? Although the public's right to know has not been openly denied, the march of events has worked a serious diminution in the range and types of information that are being freely dispensed to inquiring citizens, their representatives in Congress, and to members of the press. Counterbalancing the presumption that in a democracy the public has the right to know the business of its Government is the executive privilege theory—a theory whose roots run deep in the American political tradition. This concept holds that the President may authorize the withholding of such information as he deems appropriate to the national well-being. Thomas Jefferson stated the principles upon which this privilege rests in these terms:

> With respect to papers, there is certainly a public and a private side to our offices. To the former belong grants of land, patents for inventions, certain commissions, proclamations, and other papers patent in their nature.
>
> To the other belong mere executive proceedings. All nations have found it necessary, that for the advantageous conduct of their affairs, some of these proceedings, at least, should remain known to their executive functionary only. He, of course, from the nature of the case, must be the sole judge of which of them the public interests will permit publication. Hence, under our Constitution, in requests of papers, from the legislative to the executive branch, an exception is carefully expressed, as to those which he may deem the public welfare may require not to be disclosed.

While the bounds of the executive privilege claim have, of late, been more carefully spelled out and, in effect, narrowed, widespread withholding of Government records by executive agency officials continues in spite of the enactment of limiting statutes. In 1958, the Congress passed the Moss-Hennings bill, which granted agency heads considerable leeway in the handling of agency records but gave no official legislative sanction to a general withholding of such records from the public. The enactment of the Administrative Procedure Act held out promise for introducing a measure of uniformity in the administrative regulations that were applied to agency disclosures. According to the terms of section 3 or the public information section of this act:

> Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency, executive agencies are required to publish or make available to the public, their rules, statements of policy, policy interpretations and modes of operation as well as other data constituting matters of official record.

Quoting subsection (c) of section 3:

> Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

A careful analysis of the precise wording of the widely criticized public information section offers ample evidence for doubt as to the effectiveness of the guarantees which its authors and sponsors sought to effect. Broad withholding powers have grown out of the vague and loosely defined terms with which this act is replete. Federal agencies may curb the distribution of their records should the public interest so require. What specifically is the public interest? The Manual on the Administrative Procedure Act allows each of the agencies to determine those functions which may remain secret in the public interest. Federal agencies may limit the dissemination of a wide range of information

that they deem related "solely to the internal management" of the agency. What are the limitations, if any, that are attached to this provision? Federal agencies may withhold information "for good cause found." What constitutes such a "good cause?" Even if information sought does not violate an agency's ad hoc definition of the "public interest"—even if information sought does not relate "solely to the internal management" of the agency or if "no good cause" can be found for its retention, agencies may decline to release records to persons other than those "properly and directly concerned." What are the criteria that an individual must present to establish a "proper and direct concern?" We search in vain if we expect to find meaningful and uniform definitions or reasonable limitations of the qualifying clauses contained in the controversial public information section of the Administrative Procedure Act. We search in vain, for what we seek does not presently exist.

Threats to cherished liberties and fundamental rights are inherent in the relatively unchecked operations of a mushrooming bureaucracy—threats though they be more subtle are no less real and no less dangerous than those which our Founding Fathers labored to prevent.

The changes that are contained in the Federal Public Records Act before us today offer a means of restoring to the American people their free and legitimate access to the affairs of Government. It seeks to accomplish this important objective in a variety of ways. Subsection (a) of S. 1160 clarifies the types of information which Federal agencies will be required to publish in the Federal Register. By making requisite the publication of "descriptions of an agency's central and field organization and the established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals or requests, or obtain decisions," the individual may be more readily apprised by responsible officials of those aspects of administrative procedure that are of vital personal consequence. Material "readily available" to interested parties may be incorporated "by reference" in the Register. "Incorporation by reference" will provide interested parties with meaningful citations to unabridged sources that contain the desired data. The Director of the Federal Register, rather than individual agency heads, must give approval before material may be so incorporated.

Subsection (b) of the Federal Public Records Act will eliminate the vague provisions that have allowed agency personnel to classify as "unavailable to the public" materials "required for good cause to be held confidential." All material will be considered available upon request unless it clearly falls within one of the specifically defined categories exempt from public disclosure. This subsection should be a boon not only to the frustrated citizen whose requests for the right to know have been denied time and time again. The reasons for denial seldom prove satisfactory or enlightening—for all too often they are couched in administrative jargon that is meaningless to the ordinary citizen. Subsection (b) of S. 1160 should be equally valuable to harried Government officials assigned the monumental responsibility of deciding what information may be released and what must be withheld in light of the proper functioning of the Government. The information guarantees of this subsection state:

> Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) staff manuals and instructions to staff that affect any member of the public unless such materials are promptly published and copies offered for sale.

We have labored long and hard to establish firmly the premise that the public has not only the right but the need to know. We have also accepted the fact that the individual is entitled to respect for his right of privacy. The question arises as to how far we are able to extend the right to know doctrine before the inevitable collision with the right of the individual to the enjoyment of confidentiality and privacy. Subsection (b) attempts to resolve this conflict by allowing Federal agencies to delete personally identifying details from publicly inspected opinions, policy statements, policy interpretations, staff manuals, or instructions in order "to prevent a clearly unwarranted invasion of personal privacy." Should agencies delete personal identifications that cannot reasonably be shown to have direct relationship to the general public interest, they must justify in writing the reasons for their actions. This "in writing" qualification is incorporated to prevent the "invasion of personal privacy clause" from being distorted and used as a broad shield for unnecessary secrecy.

To insure that no citizen will be denied full access to data that may be of crucial importance to his case, for want of knowledge that the material exists, each agency must "maintain and make available for public inspection and copying a current index providing identifying information to the public as to any matter which is issued, adopted, or promulgated after the effective date of this act and which is required by this subsection to be made available or published."

Perhaps the most serious defect in the present law rests in the qualification contained in subsection (c) of the public information provisions which limits those to whom Federal regulatory and executive agencies may give information to "persons properly and directly concerned." These words have been interpreted over the years in such a fashion as to render this section of the Administrative Procedure Act a vehicle for the withholding from the public eye of information relevant to the conduct of Government operations. Final determination of whether or not a citizen's interest is sufficiently "direct and proper" is made by the various agencies. The taxpaying citizen who feels that he has been unfairly denied access to information has had no avenue of appeal. Subsection (c) of the proposed Federal Public Records Act legislation would require that:

> Every agency in accordance with published rules stating the time, place, and procedure to be followed, make all its records promptly available to *any person*.

Should any person be denied the right to inspect agency records, he could appeal to and seek review by a U.S. district court. Quoting the "agency records" subsection of S. 1160:

> Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, shall have jurisdiction to enjoin the agency from withholding of agency records and information and to order the production of any agency records or information improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action.

While we recognize the merits of and justifications for arguments advanced in support of limited secrecy in a government that must survive in the climate of a cold war, we must also recognize that the gains—however small—made by secrecy effect an overall reduction in freedom. As the forces of secrecy gain, the forces of freedom lose. It is, therefore, incumbent upon us to exercise prudence in accepting measures which constitute limitations on the freedoms of our people. Restrictions must be kept to a minimum and must be carefully circumscribed lest they grow and, in so doing, cause irreparable damage to liberties that are the American heritage and the American way of life.

S. 1160 seeks to open to all citizens, so far as consistent with other national goals of equal importance, the broadest possible range of information. I feel that the limitations imposed are clearly justifiable in terms of other objectives that are ranked equally important within our value system. The presumption prevails in favor of the people's right to know unless information relates to matters that are, first, specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; second, matters related solely to the internal personnel rules and practices of any agency; third, matters specifically exempted from disclosure by other statutes; fourth, trade secrets and commercial or financial information obtained from the public and privileged or confidential; fifth, interagency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; sixth, personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; seventh, investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; eighth, matters contained in or related to examination, operating, or condition

reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and ninth, geological and geophysical information and data concerning wells.

Ours is perhaps the freest government that man has known. Though it be unique in this respect, it will remain so only if we keep a constant vigilance against threats—large or small—to its principles and institutions. If the Federal Public Records Act is enacted, it will be recorded as a landmark in the continuing quest for the preservation of man's fundamental liberties—for it will go far in halting and reversing the growing trend toward more secrecy in Government and less public participation in the decisions of Government.

James Madison eloquently argued on behalf of the people's right to know when he proclaimed that "Knowledge will forever govern ignorance. And a people who mean to be their own governors must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both."

This is a measure in which every Member of Congress can take great pride. In the long view, it could eventually rank as the greatest single accomplishment of the 89th Congress.

Not only does it assert in newer and stronger terms the public's right to know, but it also demonstrates anew the ultimate power of the Congress to make national policy on its own—with or without Executive concurrence—where the public interest so demands. It thus helps to reaffirm the initiative of the legislature and the balance of powers, at a time when the Congress is the object of much concern and criticism over the apparent decline of its influence in the policymaking process.

Though I took a place on the Subcommittee on Foreign Operations and Government Information only last year, I take deep pride in my service with it and in the shining role it has played in shaping this historic act. I firmly hope and expect that the act will win the unanimous support of the House.

Mr. OLSEN of Montana. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I am pleased to yield to the gentleman from Montana.

Mr. OLSEN of Montana. Mr. Speaker, I too wish to commend the gentleman in the well for his great work over the years on this subject of freedom of information as to Government records. However, I do want to ask the gentleman a question with reference to the Bureau of the Census. The Bureau of the Census can only gather the information that it does gather because that information will be held confidential or the sources of information will be held to be confidential. I presume that the provisions on page 5 of the bill under "Exemptions," No. (3), in other words providing that the provisions of this bill shall not be applicable to matters that are "(3) specifically exempted from disclosure by statute;"—that would exempt the Bureau of the Census from this new provision.

Mr. MOSS. That is correct.

Mr. OLSEN of Montana. I thank the gentleman.

Mr. EDMONDSON. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I am very pleased to yield to my colleague.

Mr. EDMONDSON. Mr. Speaker, I rise in support of the bill and congratulate the gentleman from California for the outstanding leadership he has given to this body in a field that vitally affects the basic health of our democracy as this subject matter does.

I think the gentleman from California has won not only the respect and admiration of all of his colleagues in the House for the manner in which he has championed this worthwhile cause, but he has also won the respect and admiration of the people of the United States. I was glad to join him by introducing H.R. 5018 on the same subject and urge approval of S. 1160.

Mr. MOSS. I thank the gentleman.

Mr. MAILLIARD. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I am pleased to yield to my colleague.

Mr. MAILLIARD. Mr. Speaker, I also want to compliment the gentleman for bringing to fruition many years of effort in this field.

I would like to ask my colleague a question, and of course I realize the gentleman cannot answer every question in detail. But I am very much interested in the fact that under the Merchant Marine Act where the computation of a construction subsidy is based upon an estimate that is made in the Maritime Administration, to date the Maritime Administration has refused to divulge to the companies their determination of how much the Government pays and how much the individual owner has to pay. That is based on these computations.

The Maritime Administration has never been willing to reveal to the people directly involved how the determination is made. In the gentleman's opinion, under this bill, would this kind of information be available at least to those whose direct interests are involved?

Mr. MOSS. It is my opinion that that information, unless it is exempted by statute, would be available under the terms of the amendment now before the House.

Mr. MAILLIARD. I appreciate the response of the gentleman very much indeed.

The SPEAKER. The gentleman from California [Mr. Moss] has consumed 20 minutes.

The Chair recognizes the gentleman from New York [Mr. REID].

Mr. REID of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1160, a bill to clarify and protect the right of the public to information, and for other purposes.

It is, I believe, very clear in these United States that the public's right of access, their inherent right to know, and strengthened opportunities for a free press in this country are important, are basic and should be shored up and sustained to the maximum extent possible. The right of the public to information is paramount and each generation must uphold anew that which sustains a free press.

I believe this legislation is clearly in the public interest and will measurably improve the access of the public and the press to information and uphold the principle of the right to know.

To put this legislation in clear perspective, the existing Administrative Procedure Act of 1946 does contain a series of limiting clauses which does not enhance the public's right of access. Specifically it contains four principal qualifications:

First, an individual must be "properly and directly concerned" before information can be made available. It can still be withheld for "good cause found." Matters of "internal management" can be withheld and, specifically and most importantly, section 3 of the act states at the outset that "any function of the United States requiring secrecy in the public interest" does not have to be disclosed.

Section 3 reads in its entirety as follows:

Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

(a) RULES.—Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(b) OPINIONS AND ORDERS.—Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

(c) PUBLIC RECORDS.—Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

This is a broad delegation to the Executive. Further, none of these key phrases is defined in the statute, nor has any of them—to the best of my knowledge—been interpreted by judicial decisions. The Attorney General's Manual on the Administrative Procedure Act merely states that:

Each agency must examine its functions and the substantive statutes under which it

operates to determine which of its materials are to be treated as matters of official record for the purposes of the section (section 3).

I believe that the present legislation properly limits that practice in several new and significant particulars:

First, any person will now have the right of access to records of Federal Executive and regulatory agencies. Some of the new provisions include the requirement that any "amendment, revisions, or repeal" of material required to be published in the Federal Register must also be published; and the requirement that every agency make available for "public inspection and copying" all final opinions—including dissents and concurrences—all administrative staff manuals, and a current index of all material it has published. Also, this bill clearly stipulates that this legislation shall not be "authority to withhold information from Congress."

Second, in the bill there is a very clear listing of specific categories of exemptions, and they are more narrowly construed than in the existing Administrative Procedure Act.

Under the present law, information may be withheld—under a broad standard—where there is involved "any function of the United States requiring secrecy in the public interest." The instant bill would create an exemption in this area solely for matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." In my judgment, this more narrow standard will better serve the public interest.

Third, and perhaps most important, an individual has the right of prompt judicial review in the Federal district court in which he resides or has his principal place of business, or in which the agency records are situated. This is not only a new right but it is a right that must be promptly acted on by the courts, as stated on page 4 of the instant bill:

> Proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

So the provision for judicial review is, in my judgment, an important one and one that must be expedited.

This legislation also requires an index of all decisions as well as the clear spelling out of the operational mechanics of the agencies and departments, and other certain specifics incident to the public's right to know.

I think it is important also to indicate that this new legislation would cover, for example, the Passport Office of the Department of State, and would require an explanation of procedures which have heretofore never been published.

In addition, the legislation requires that there be the publication of the names and salaries of all those who are Federal employees except, of course, the exemptions that specifically apply. I think this is also a salutory improvement. The exemptions, I think, are narrowly construed and the public's right to access is much more firmly and properly upheld.

Our distinguished chairman of this subcommittee, who has done so much in this House to make this legislation a reality here today, and is deserving of the commendation of this House, has pointed to the fact that a number of groups and newspaper organizations strongly support the legislation. I would merely state that it does enjoy the support of the American Society of Newspaper Editors, the American Newspaper Publishers Association, Sigma Delta Chi, AP Managing Editors, National Newspaper Association, National Press Association, National Editorial Association, the American Bar Association, the American Civil Liberties Union, the National Association of Broadcasters, the New York State Publishers Association, and others.

Specifically, Mr. Eugene Patterson, chairman of the Freedom of Information Committee of the American Society of Newspaper Editors, has said:

> We feel this carefully drawn and long-debated bill now provides Congress with a sound vehicle for action this year to change the emphasis of the present Administrative Procedure Act, which has the effect of encouraging agencies to withhold information needlessly. We believe the existing instruction to agencies—that they may withhold any information "for good cause found," while leaving them as sole judges of their own "good cause"—naturally has created among some agency heads a feeling that "anything the American people don't know won't hurt them, whereas anything they do know may hurt me."

Mr. Edward J. Hughes, chairman of the legislative committee of the New York State Publishers Association, has written me that obtaining "proper and workable Freedom of Information legislation at the Federal level has been of direct and great interest and importance to us." Mr. Hughes continues that passage of this legislation will "dispose constructively of a longstanding and vexing problem."

I would also say that were Dr. Harold Cross alive today, I believe he would take particular pride in the action I hope this body will take. I knew Dr. Cross and he was perhaps the most knowledgeable man in the United States in this area. He worked closely with the Herald Tribune and I believe he would be particularly happy with regard to this legislation.

Lastly, Mr. Speaker, I believe it is important to make clear not only that this legislation is needed, not only that it specifies more narrowly the areas where information can be withheld by the Government, not only that it greatly strengthens the right of access, but it also should be stated clearly that it is important—and I have no reason to doubt this—that the President sign this legislation promptly.

I would call attention to the fact that there are in the hearings some reports of agencies who, while agreeing with the objective of the legislation, have reservations or outright objections to its particular form. I hope the President will take counsel of the importance of the principle here involved, and of the action of this House today, and that he will sign the bill promptly, because this is clearly in the interest of the public's paramount right to know, of a free press and, in my judgment, in the interest of the Nation.

Mr. FULTON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Pennsylvania.

Mr. FULTON of Pennsylvania. Mr. Speaker, I compliment my friend the gentleman from New York [Mr. REID] on his excellent statement, and also his dedication to duty in studying and contributing so much to working out good rules for freedom of information in Government departments and agencies.

Along with those others who have been interested in this serious problem of the right of access to Government facts. The gentleman from New York [Mr. REID] should certainly be given the highest credit.

Mr. REID of New York. I thank the gentleman.

Mr. KUNKEL. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Pennsylvania.

Mr. KUNKEL. Mr. Speaker, I commend the gentleman in the well and the gentleman from California for bringing this legislation to the floor.

I strongly support it.

In fact, I would almost go further than the committee does in this legislation. It is very important to have at least this much enacted promptly. I do hope the President will sign it into law promptly, because right now there are a great many instances occurring from time to time which indicate the necessity of having something like this on the statute books. It is a definite step in the right direction—I am counting on the committee doing a good overseeing job to see that it functions as intended.

Mr. REID of New York. I thank the gentleman for his thoughtful statement. I add merely that the freedom of the press must be reinsured by each generation. I believe the greater access that this bill will provide sustains that great principle.

Mr. LAIRD. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Wisconsin.

Mr. LAIRD. Mr. Speaker, I thank the gentleman for yielding to me. I rise in support of this legislation, S. 1160.

Mr. Speaker, this legislation is long overdue, and marks a historic breakthrough for freedom of information in that it puts the burden of proof on officials of the bureaus and agencies of the executive branch who seek to withhold information from the press and public, rather than on the inquiring individual who is trying to get essential information as a citizen and taxpayer.

Mr. Speaker, this is not a partisan bill—at least not here in the Congress. We have heard that the administration is not happy about it and has delayed its enactment for a number of years, but the overwhelming support it has received from distinguished members of the Government Operations Committee—both on the majority and minority side—and the absence of any opposition

here in the House is clear evidence of the very real concern responsible Members feel over what our Ambassador to the United Nations, Arthur Goldberg, has aptly termed the credibility problem of the U.S. Government. The same concern over the credibility gap is shared by the American public and the press, and it is a great satisfaction to me that the Congress is taking even this first step toward closing it.

Our distinguished minority leader, the gentleman from Michigan [Mr. GERALD R. FORD] at a House Republican policy committee news conference last May 18, challenged the President to sign this bill. I hope the President will sign it, and beyond that, will faithfully execute it so that the people's right to know will be more surely founded in law in the future.

But Mr. Speaker, we cannot legislate candor nor can we compel those who are charged with the life-and-death decisions of this Nation to take the American people into their confidence. We can only plead, as the loyal opposition, that our people are strong, self-reliant, and courageous, and are worthy of such confidence. Americans have faced grave crises in the past and have always responded nobly. It was a great Republican who towered above partisanship who warned that you cannot fool all of the people all of the time, and it was a great Democrat, Woodrow Wilson, who said:

I am seeking only to face realities and to face them without soft concealments.

Mr. Speaker, I would like to point out that the provisions of this bill do not take effect until 1 year after it becomes law. Thus it will not serve to guarantee any greater freedom of information in the forthcoming political campaign than we have grown accustomed to getting from the executive branch of the Government in recent years. We of the minority would be happy to have it become operative Federal law immediately, but it is perhaps superfluous to say that we are not in control of this Congress.

In any event, if implemented by the continuing vigilance of the press, the public, and the Congress, this bill will make it easier for the citizen and taxpayer to obtain the essential information about his Government which he needs and to which he is entitled. It helps to shred the paper curtain of bureaucracy that covers up public mismanagement with public misinformation, and secret sins with secret silence. I am confident that I speak for most of my Republican colleagues in urging passage of this legislation.

Mr. Speaker, I append the full text of the House Republican Policy Committee statement on the freedom of information bill, S. 1160, adopted and announced on May 18 by my friend, the distinguished chairman of our policy committee, the gentleman from Arizona [Mr. RHODES]:

REPUBLICAN POLICY COMMITTEE STATEMENT ON FREEDOM OF INFORMATION LEGISLATION, S. 1160

The Republican Policy Committee commends the Committee on Government Operations for reporting S. 1160. This bill clarifies and protects the right of the public to essential information. Subject to certain exceptions and the right to court review, it would require every executive agency to give public notice or to make available to the public its methods of operation, public procedures, rules, policies, and precedents.

The Republican Policy Committee, the Republican Members of the Committee on Government Operations, and such groups as the American Newspaper Publishers Association, the professional journalism society Sigma Delta Chi, the National Editorial Association and the American Bar Association have long urged the enactment of this legislation. Due to the opposition of the Johnson-Humphrey Administration, however, this proposal has been bottled up in Committee for over a year. Certainly, information regarding the business of the government should be shared with the people. The screen of secrecy which now exists is a barrier to reporters as representatives of the public, to citizens in pursuit of information vital to their welfare, and to Members of Congress as they seek to carry out their constitutional functions.

Under this legislation, if a request for information is denied, the aggrieved person has the right to file an action in a U.S. District Court, and such court may order the production of any agency records that are improperly withheld. So that the court may consider the propriety of withholding, rather than being restricted to judicial sanctioning of agency discretion, the proceedings are de novo. In the trial, the burden of proof is correctly placed upon the agency. A private citizen cannot be asked to prove that an agency has withheld information improperly for he does not know the basis for the agency action.

Certainly, as the Committee report has stated: "No Government employee at any level believes that the 'public interest' would be served by disclosure of his failures or wrongdoings . . ." For example, the cost estimates submitted by contractors in connection with the multimillion-dollar deep sea "Mohole" project were withheld from the public even though it appeared that the firm which had won the lucrative contract had not submitted the lowest bid. Moreover, it was only as a result of searching inquiries by the press and Senator KUCHEL (R., Cal.) that President Kennedy intervened to reverse the National Science Foundation's decision that it would not be "in the public interest" to disclose these estimates.

The requirements for disclosure in the present law are so hedged with restrictions that it has been cited as the statutory authority for 24 separate classifications devised by Federal agencies to keep administrative information from public view. Bureaucratic gobbledygook used to deny access to information has included such gems as: "Eyes Only," "Limited Official Use," "Confidential Treatment," and "Limitation on Availability of Equipment for Public Reference." This paper curtain must be pierced. This bill is an important first step.

In this period of selective disclosures, managed news, half-truths, and admitted distortions, the need for this legislation is abundantly clear. High officials have warned that our Government is in grave danger of losing the public's confidence both at home and abroad. The credibility gap that has affected the Administration pronouncements on domestic affairs and Vietnam has spread to other parts of the world. The on-again, off-again, obviously less-than-truthful manner in which the reduction of American forces in Europe has been handled has made this country the subject of ridicule and jokes. "Would you believe?" has now become more than a clever saying. It is a legitimate inquiry.

Americans have always taken great pride in their individual and national credibility. We have recognized that men and nations can be no better than their word. This legislation will help to blaze a trail of truthfulness and accurate disclosure in what has become a jungle of falsification, unjustified secrecy, and misstatement by statistic. The Republican Policy Committee urges the prompt enactment of S. 1160.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Speaker, I rise in support of this legislation. I congratulate the gentleman in the well, the gentleman from New York [Mr. REID] and the gentleman from California [Mr. MOSS], for bringing this legislation to us. Certainly this legislation reaffirms our complete faith in the integrity of our Nation's free press.

It has been wisely stated that a fully informed public and a fully informed press need never engage in reckless or irresponsible speculation. This legislation goes a long way in giving our free press the tools and the information it needs to present a true picture of government properly and correctly to the American people.

As long as we have a fully informed free press in this country, we need never worry about the endurance of freedom in America. I congratulate the gentlemen for this very thoughtful legislation.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

I commend the distinguished gentleman from New York for his long interest in this struggle. I compliment him also for giving strong bipartisan support, which is necessary for the achievement of this longstanding and vital goal.

Mr. Speaker, this is indeed an historic day for the people of America, for the communications media of America and the entire democratic process. It is, I am sure, a particularly gratifying day for our colleague, the distinguished gentleman from California, JOHN MOSS.

As chairman of the subcommittee he has worked tirelessly for 11 years to enact this public records disclosure law. His determination, perseverance, and dedication to principle makes possible this action today. I am proud to have been a member of the subcommittee and to have cosponsored this bill

Mr. Speaker, this House now has under consideration a bill concerned with one of the most fundamental issues of our democracy. This is the right of the people to be fully informed about the policies and activities of the Federal Government.

No one would dispute the theoretical validity of this right. But as a matter of practical experience, the people have found the acquisition of full and complete information about the Government to be an increasingly serious problem.

A major cause of this problem can probably be attributed to the sheer size of the Government. The Federal Establishment is now so huge and so complex, with so many departments and agencies responsible for so many functions, that

some confusion, misunderstanding, and contradictions are almost inevitable.

We cannot, however, placidly accept this situation or throw up our hands in a gesture of futility. On the contrary, the immensity of the Federal Government, its vast powers, and its intricate and complicated operations make it all the more important that every citizen should know as much as possible about what is taking place.

We need not endorse the devil theory or conspiratorial theory of government to realize that part of the cause of the information freeze can be blamed on some Government officials who under certain circumstances may completely withhold or selectively release material that ought to be readily and completely available.

The present bill amends section 3 of the Administrative Procedure Act of 1946. I have been in favor of such an amendment for a long time. In fact, on February 17, 1965, I introduced a companion bill, H.R. 5013, in this House. Since I first became a member of the Government Information Subcommittee 11 years ago, I have felt that legislation along these lines was essential to promote the free flow of Government information, and the case for its passage now is, if anything, ever stronger.

At first glance section 3 as now written seems innocent enough. It sets forth rules requiring agencies to publish in the Federal Register methods whereby the public may obtain data, general information about agency procedures, and policies and interpretations formulated and adopted by the agency. As a general practice this law appears to make available to the people agency opinions, orders, and public records.

However, 11 years of study, hearings, investigations, and reports have proven that this language has been interpreted so as to defeat the ostensible purpose of the law. Also under present law any citizen who feels that he has been denied information by an agency is left powerless to do anything about it.

The whole of section 3 may be rendered meaningless because the agency can withhold from the public such information as in its judgment involves "any function of the United States requiring secrecy in the public interest." This phrase is not defined in the law, nor is there any authority for any review of the way it may be used. Again, the law requires an agency to make available for public perusal "all final opinions or orders in the adjudication of cases," but then adds, "except those required for good cause to be held confidential."

Subsection (c) orders agencies to make available its record in general "to persons properly and directly concerned except information held confidential for good cause found." Here indeed is what has been accurately described as a double-barreled loophole. It is left to the agency to decide what persons are "properly and directly concerned," and it is left to the agency to interpret the phrase, "for good cause found."

Finally, as I have already indicated, there is under this section no judicial remedy open to anyone to whom agency records and other information have been denied.

Under the protection of these vague phrases, which they alone must interpret, agency officials are given a wide area of discretion within which they can make capricious and arbitrary decisions about who gets information and who does not.

On the other hand, it should in all fairness be pointed out that these officials should be given more specific directions and guidance than are found in the present law.

For this reason I believe the passage of S. 1160 would be welcomed not only by the public, who would find much more information available to them, but by agency officials as well because they would have a much clearer idea of what they could and could not do.

The enactment of S. 1160 would accomplish what the existing section 3 was supposed to do. It would make it an information disclosure statute.

In the words of Senate Report No. 813 accompanying this bill, S. 1160 would bring about the following major changes:

1. It sets up workable standards for what records should and should not be open to public inspection. In particular, it avoids the use of such vague phrases as "good cause found" and replaces them with specific and limited types of information that may be withheld.

2. It eliminates the test of who shall have the right to different information. For the great majority of different records, the public as a whole has a right to know what its Government is doing. There is, of course, a certain need for confidentiality in some aspects of Government operations and these are protected specifically; but outside these limited areas, all citizens have a right to know.

As indicated under point 2 above, we all recognize the fact that some information must be withheld from public scrutiny. National security matters come first to mind, but there are other classes of data as well. These include personnel files, disclosure of which would constitute an invasion of privacy, information specifically protected by Executive order or statute, certain inter- and intra-agency memorandums and letters, trade secrets, commercial and financial data, investigatory files, and a few other categories.

Let me make another very important point. S. 1160 opens the way to the Federal court system to any citizen who believes that an agency has unjustly held back information. If an aggrieved person seeks redress in a Federal district court, the burden would fall on the agency to sustain its action. If the court enjoins the agency from continuing to withhold the information, agency officials must comply with the ruling or face punishment for contempt.

I strongly urge my colleagues to join me in giving prompt and overwhelming approval to this measure. In so doing we shall make available to the American people the information to which they are entitled and the information they must have to make their full contribution to a strong and free national government. Furthermore, we shall be reaffirming in the strongest possible manner that democratic principle that all power to govern, including the right to know is vested in the people; the people in turn gave by the adoption of the Constitution a limited grant of that unlimited power to a Federal Government and State governments.

In the constitutional grant the people expressly revalidated the guarantee of freedom of speech and freedom of the press among other guarantees, recognizing in so doing how basic are these guarantees to a constitutional, representative, and democratic government. There is no doubt about the power of the Congress to act and no serious question that it should and must.

Mr. REID of New York. I thank the gentleman from Florida. I note his long and clear dedication to freedom of the press, and his action on behalf of this bill.

Mr. HECHLER. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I am happy to yield to the gentleman from West Virginia.

Mr. HECHLER. Mr. Speaker, I add my words of commendation to the gentleman from California, the gentleman from New York, and others who have worked so hard to bring this bill to the House.

Today—June 20—is West Virginia Day. On June 20, 1863, West Virginia was admitted to the Union as the 35th State. The State motto, "Montani Semper Liberi," is particularly appropriate as we consider this freedom of information bill.

I am very proud to support this legislation, because there is much information which is now withheld from the public which really should be made available to the public. We are all familiar with the examples of Government agencies which try to tell only the good things and suppress anything which they think might hurt the image of the agency or top officials thereof. There are numerous categories of information which would be sprung loose by this legislation.

It seems to me that it would be in the public interest to make public the votes of members of boards and commissions, and also to publicize the views of dissenting members. I understand that six agencies do not presently publicize dissenting views. Also, the Board of Rivers and Harbors, which rules on billions of dollars of Federal construction projects, closes its meetings to the press and declines to divulge the votes of its members on controversial issues.

Therefore, I very much hope that this bill will pass by an overwhelming vote. Under unanimous consent, I include an editorial published in the Huntington, W. Va., Herald-Dispatch, and also an editorial from the Charleston, W. Va., Gazette:

[From the Huntington (W. Va.) Herald-Dispatch, June 16, 1966]

FOR FREEDOM OF INFORMATION, SENATE BILL 1160 IS NEEDED

If ours is truly a government of, by and for the people, then the people should have free access to information on what the government is doing and how it is doing it. Exception should only be made in matters involving the national security.

Yet today there are agencies of government which seek to keep a curtain of secrecy over

some of their activities. Records which ought to be available to the public are either resolutely withheld or concealed in such a manner that investigation and disclosure require elaborate and expensive techniques.

A good example occurred last summer, when the Post Office Department, in response to a Presidential directive, hired thousands of young people who were supposed to be "economically and educationally disadvantaged."

Suspicions were aroused that the jobs were being distributed as Congressional patronage to people who did not need them. But when reporters tried to get the names of the jobholders in order to check their qualifications, the Department cited a regulation forbidding release of such information.

The then Postmaster General John Gronouski finally gave out the names (which confirmed the suspicions of the press), but only after Congressional committees of Congress with jurisdiction over the Post Office Department challenged the secrecy regulations.

This incident, more than any other that has occurred recently, persuaded the U.S. Senate to pass a bill known as S. 1160 under which every agency of the federal government would be required to make all its records available to any person upon request. The bill provides for court action in cases of unjustified secrecy. And of course it makes the essential exemptions for "sensitive" government information involving national security.

Congressman DONALD RUMSFELD (R-Ill.), one of the supporters of S. 1160 in the House, calls the bill "one of the most important measures to be considered by Congress in 20 years."

"This bill really goes to the heart of news management," he declared. "If information is being denied, the press can go into Federal Court in the district where it is being denied and demand the agency produce the records."

The Congressman was critical of the press and other information media for failing to make a better campaign on the bill's behalf. He stressed that it was designed for the protection of the public and the public has not been properly warned of the need for the legislation.

If this is true, it is probably because some newspapers fail to emphasize that press freedom is a public right, not a private privilege.

S. 1160 would be a substantial aid in protecting the rights of the people to full information about their government. In the exercise of that right, the bill would give the press additional responsibilities, but also additional methods of discharging them.

If S. 1160 comes to the House floor, it will be hard to stop. The problem is to get it to the voting stage.

We urge readers to send a letter or a card to their Congressman, telling him that the whole system of representative government is based on involvement by the people. But through lack of information, the people lose interest and subsequently they lose their rights. S. 1160 will help to prevent both losses.

[From the Charleston (W. Va.) Gazette, June 18, 1966]

BILL REVEALING U.S. ACTIONS TO PUBLIC VIEW NECESSITY

Now pending in the House of Representatives is a Senate-approved bill (S. 1160) to require all federal agencies to make public their records and other information, and to authorize suits in federal district courts to obtain information improperly withheld.

This is legislation of vital importance to the American public, for it would prevent the withholding of information for the purpose of covering up wrongdoing or mistakes, and would guard against the practice of giving out only that which is favorable and suppressing that which is unfavorable.

The measure would protect certain categories of sensitive government information, such as matters involving national security, but it would put the burden on federal agencies to prove they don't have to supply certain information rather than require interested citizens to show cause why they are entitled to it.

Rep. DONALD RUMSFELD, R-Ill., who with Rep. JOHN E. MOSS, D-Calif., is leading the fight for the bill in the House, gave perhaps the best reason for enactment of the legislation in these words:

"Our government is so large and so complicated that few understand it well and others barely understand it at all. Yet we must understand it to make it function better."

The Senate passed the bill by a voice vote last October. The House subcommittee on foreign operations and government information, better known as the Moss subcommittee, approved it on March 30, and the House Committee on Government Operations passed on it April 27. It's expected to go before the House next week.

Rep. RUMSFELD, who termed the bill "one of the most important measures to be considered by Congress in 20 years," cited the case of the Post Office Department and summer employes last year as an example of how a government agency can distort or violate provisions of law under cover of secrecy.

Newspapers disclosed that the Post Office Department was distributing as congressional patronage thousands of jobs that were supposed to go to economically and educationally disadvantaged youths.

But the department used regulation 744.44, which states that the names, salaries and other information about postal employes should not be given to any individual, commercial firm, or other non-federal agency—as the basis for refusing to divulge the names of appointees to the press, four congressmen, or the Moss committee, all of whom challenged the secrecy regulations.

In other words, the department could put political hacks into jobs designed to help disadvantaged youths, and get away with it by hiding under the cloak of a bureaucratic regulation. There finally was a reluctant authorization to release the names, but the department still refused to change the basic regulation. This sort of manipulation would be put on the run by passage of S. 1160.

The federal government is a vast and complex operation that reaches into every state and every community, with literally millions of employes. Wherever it operates it is using public money and conducting public business, and there is no reason why it should not be held accountable for what it is doing.

Under present laws, as Rep. RUMSFELD pointed out, "Any bureaucrat can deny requests for information by calling up Section 3 of the Administrative Procedure Act, passed in 1946. To get information under this act, a person has to show good cause and there are numerous different reasons under the act which a federal agency can use to claim the person is not properly or directly concerned. Most of the reasons are loose catch phrases."

Any law or regulation that protects government officials and employes from the public view, will in the very least, incline them to be careless in the way they conduct the public business. A law that exposes them to that view is bound to encourage competency and honesty. Certainly the pending bill is in the public interest. It should be enacted into law, and we respectfully urge the West Virginia Congressmen to give it their full support.

Mr. REID of New York. I thank the gentleman.

Mr. KUPFERMAN. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from New York.

Mr. KUPFERMAN. Mr. Speaker, the gentleman from New York [Mr. REID] has stated the matter so well that it does not require more discussion from me on behalf of this bill. I commend the gentleman from New York and others associated with him for having brought the bill to the floor and helping us pass it today.

Mr. REID of New York. I thank the gentleman.

Mr. GRIDER. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Tennessee.

Mr. GRIDER. Mr. Speaker, I rise in support of S. 1160, legislation for clarifying and protecting the right of the public to information.

This legislation has been pending for more than a decade. Although few people question the people's right to know what is going on in their Government, we have quibbled for far too long over the means of making this information available. In the process we may have lost sight of the desired end result—freedom of information.

The need for maintaining security in some of our cold war dealings is not questioned here. As the Commercial Appeal says in an excellent editorial about this legislation:

> The new law would protect necessary secrecy, but the ways of the transgressor against the public interest would be much harder.

Our colleague from California [Mr. MOSS] and members of his committee have done a splendid job with this legislation. This bill is clearly in the public interest.

Mr. Speaker, I include at this point in my remarks the editorial "Freedom of Information," which appeared June 16, 1966, in the Memphis Commercial Appeal:

FREEDOM OF INFORMATION

The House of Representatives is scheduled to act Monday on the Freedom of Information Bill, an event of the first class in the unending struggle to let people know how governments operate. Such knowledge is an essential if there is to be sound government by the people.

This bill has been in preparation 13 years. It is coming up for a vote now because pulse feeling in Congress indicated that it will win approval this year in contrast to some other years of foot dragging by members of the House who announce for the principle but doubt the specific procedure.

The Senate has passed an identical bill.

At the heart of the proposed law is an ending of the necessity for a citizen to have to go into court to establish that he is entitled to get documents, for instance showing the rules under which a governmental agency operates, or which officials made what decisions.

This would be reversed. The official will have to prove in court that the requested document can be withheld legally.

A trend toward secrecy seems to be a part of the human nature of officials with responsibility. There are a few things that need to be done behind a temporary veil, especially in preparing the nation's defenses, often in the buying of property, and sometimes in the management of personnel.

But the urge is to use the "classified" stamp to cover blunders, errors and mistakes which the public must know to obtain corrections.

The new law would protect necessary secrecy but the ways of the transgressor against the public interest would be much harder. The real situation is that a 1946 law intended to open more records to the public has been converted gradually into a shield against questioners. Technically the 1966 proposal is a series of amendments which will clear away the wording behind which reluctant officials have been hiding.

It results from careful preparation by JOHN MOSS (D., Calif.) with the help of many others.

It is most reassuring to have Representative Moss say of a bill which seems to be cleared for adoption that we are about to have for the first time a real guarantee of the right of the people to know the facts of government.

Mr. GRIDER. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and include an editorial.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. VAN DEERLIN. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I am happy to yield to the gentleman from California.

Mr. VAN DEERLIN. Mr. Speaker, those of us who have served with JOHN MOSS on the California delegation are well aware of the long and considerable effort which he has applied to this subject.

The Associated Press, in a story published less than a week ago, related that 13 of the 14 years this gentleman has served in the House have been devoted to developing the bill before us today. I join my colleagues in recognizing this effort, and I ask unanimous consent to include that Associated Press article in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The article is as follows:

[From the Los Angeles (Calif.) Times, June 12, 1966]

HOUSE APPROVAL SEEN ON RIGHT-TO-KNOW BILL—BATTLE AGAINST GOVERNMENT SECRECY, LED BY REPRESENTATIVE MOSS, OF CALIFORNIA, NEARS END

WASHINGTON.—A battle most Americans thought was won when the United States was founded is just now moving into its final stage in Congress.

It involves the right of Americans to know what their government is up to. It's a battle against secrecy, locked files and papers stamped "not for public inspection."

It's been a quiet fight mainly because it has been led by a quiet, careful congressman, Representative JOHN E. MOSS, Democrat, of California, who has been waging it for 13 of the 14 years he has been in the House.

Now, the House is about to act on the product of the years of study, hearings, investigations and reports—a bill that in some quarters is regarded as a sort of new Magna Carta. It's called the freedom of information bill, or the right to know.

It would require federal agencies to make available information about the rules they operate under, the people who run them and their acts, decisions and policies that affect the public. Large areas of government activity that must of necessity be kept secret would remain secret.

SENATE BILL IDENTICAL

House approval is believed certain, and since the Senate has already passed an identical bill, it should wind up on President Johnson's desk this month.

How it will be received at the White House is not clear. In 1960, as vice president-elect, Mr. Johnson told a convention of newspaper editors "the executive branch must see that there is no smoke screen of secrecy." But the 27 federal departments and agencies that presented their views on the bill to Moss' government information subcommittee opposed its passage.

Norbert A. Schlei, assistant attorney general, who presented the main government case against the bill, said the problem of releasing information to the public was "just too complicated, too ever-changing" to be dealt with in a single piece of legislation.

"If you have enough rules," he said, "you end up with less information getting out because of the complexity of the rule system you establish . . ."

BASIC DIFFICULTY

"I do not think you can take the whole problem, federal governmentwide, and wrap it up in one package. That is the basic difficulty; that is why the federal agencies are ranged against this proposal."

Another government witness, Fred Burton Smith, acting general counsel of the Treasury Department, said if the bill was enacted "the executive branch will be unable to execute effectively many of the laws designed to protect the public and will be unable to prevent invasions of privacy among individuals whose records have become government records."

Smith said the exemptions contained in the bill were inadequate and its court provisions inappropriate. In addition, he said, persons without a legitimate interest in a matter would have access to records and added that the whole package was of doubtful constitutionality.

STRENGTHENED FEELING

Far from deterring him, such testimony has only strengthened Moss's feeling that Congress had to do the job of making more information available to the public because the executive branch obviously wouldn't.

The bill he is bringing to the House floor, June 20, is actually a series of amendments to a law Congress passed in 1946 in the belief it was requiring greater disclosure of government information to the public. And that, for Moss, takes care of the constitutional question.

"If we could pass a weak public information law," he asks, "why can't we strengthen it."

The 1946 law has many interpretations. And the interpretations made by the executive agencies were such that the law, which was intended to open records to the public, is now the chief statutory authority cited by the agencies for keeping them closed.

SECRECY PERMITTED

The law permits withholding of records if secrecy "is required in the public interest," or if the records relate "solely to the internal management of an agency."

If a record doesn't fit those categories it can be kept secret "for good cause found." And even if no good cause is found, the information can only be given to "persons properly and directly concerned."

Between 1946, when that law was enacted, and 1958 the amount of file space occupied by classified documents increased by 1 million cubic feet, and 24 new terms were added to "top secret," "secret," and "confidential," to hide documents from public view.

They ranged from simple "nonpublic," to "while this document is unclassified, it is for use only in industry and not for public release."

USED VARIOUS WAYS

The law has been used as authority for refusing to disclose cost estimates submitted by unsuccessful bidders on nonsecret contracts, for withholding names and salaries of federal employes, and keeping secret dissenting views of regulatory board members.

It was used by the Navy to stamp its Pentagon telephone directories as not for public use on the ground they related to the internal management of the Navy.

S1160, as the bill before the House is designated, lists specifically the kind of information that can be withheld and says the rest must be made available promptly to "any" person.

The areas protected against public disclosure include national defense and foreign policy secrets, investigatory files of law enforcement agencies, trade secrets and information gathered in labor-management mediation efforts, reports of financial institutions, personnel and medical files and papers that are solely for the internal use of an agency.

IMPORTANT PROVISION

In the view of many veterans of the fight for the right to know, it's most important provision would require an agency to prove in court that it has authority to withhold a document that has been requested. Under the present law the situation is reversed and the person who wants the document has to prove that it is being improperly withheld.

The bill would require—and here is where an added burden would be placed on the departments—that each agency maintain an index of all documents that become available for public inspection after the law is enacted. To discourage frivolous requests, fees could be charged for record searches.

Moss bumped his head on the government secrecy shield during his first term in Congress when the Civil Service Commission refused to open some records to him.

"I decided right then I had better find out about the ground rules," he said in a recent interview. "While I had no background of law, I had served in the California legislature and such a thing was unheard of."

(California is one of 37 states that have open records laws.)

Moss was given a unique opportunity to learn the ground rules in his second term in Congress when a special subcommittee of Government Operations Committee was created to investigate complaints that government agencies were blocking the flow of information to the press and public.

Although only a junior member of the committee, Moss had already impressed House leaders with his diligence and seriousness of purpose and he was made chairman of the new subcommittee. His characteristics proved valuable in the venture he undertook.

The right of a free people to know how their elected representatives are conducting the public business has been taken for granted by most Americans. But the Constitution contains no requirement that the government keep the people informed.

The seeds of the secrecy controversy were sown during the first session of Congress when it gave the executive branch, in a "housekeeping" act, authority to prescribe rules for the custody, use and preservation of its record. They flourished in the climate created by the separation of the executive and legislative functions of government.

EXECUTIVE PRIVILEGE

Since George Washington, Presidents have relied on a vague concept called "executive privilege" to withhold from Congress information they feel should be kept secret in the national interest.

There are constitutional problems involved in any move by Congress to deal with that issue, and S. 1160 seeks to avoid it entirely.

Moss, acting on the many complaints he receives, has clashed repeatedly with government officials far down the bureaucratic lines who have claimed "executive privilege" in refusing to divulge information, and in 1962 he succeeded in getting a letter from President John F. Kennedy stating that only the President would invoke it in the future.

President Johnson gave Moss a similar pledge last year.

BORNE BY NEWSPAPERMEN

Until the Moss subcommittee entered the field, the battle against government secrecy had been borne mainly by newspapermen.

In 1953, the American Society of Newspaper Editors published the first comprehensive study of the growing restrictions on public access to government records—a book by Harold L. Cross entitled "The People's Right to Know."

The book provided the basis for the legislative remedy the subcommittee proceeded to seek, and Cross summed up the idea that has driven Moss ever since when he said, 'the right to speak and the right to print, without the right to know, are pretty empty."

World War II, with its emphasis on security, gave a tremendous boost to the trend toward secrecy and so did the activities of the late Sen. Joseph McCarthy, Republican, of Wisconsin, as intimidated officials pursued anonymity by keeping everything they could from public view. Expansion of federal activities in recent years made the problem ever more acute.

In 1958, Moss and the late Sen. Tom Hennings, Democrat, of Missouri, succeeded in amending the old "housekeeping" law to make clear it did not grant any right for agencies to withhold their records.

Opposition of the executive branch blocked any further congressional action. Moss, hoping to win administration support, did not push his bill until he was convinced this year it could not be obtained.

Moss feels S1160 marks a legislative milestone in the United States.

"For the first time in the nation's history," he said recently, "the people's right to know the facts of government will be guaranteed."

There is wide agreement with this view, but warnings against too much optimism are also being expressed.

Noting the exemptions written into the bill, a Capitol Hill veteran observed, "Any bureaucrat worthy of the name should be able to find some place in those exemptions to tuck a document he doesn't want seen."

Mr. SHRIVER. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I am happy to yield to the gentleman from Kansas.

Mr. SHRIVER. Mr. Speaker, I rise in support of S. 1160 which clarifies and strengthens section 3 of the Administrative Procedure Act relating to the right of the public to information.

Six years ago when President Johnson was Vice President-elect he made a statement before the convention of the Associated Press Managing Editors Association which was often repeated during hearings on this bill. He declared:

> In the years ahead, those of us in the executive branch must see that there is no smokescreen of secrecy. The people of a free country have a right to know about the conduct of their public affairs.

Mr. Speaker, over the past 30 years more and more power has been concentrated in the Federal Government in Washington. Important decisions are made each day affecting the lives of every individual.

Today we are not debating the merits of the growth of Federal Government. But as the Government grows, it is essential that the public be kept aware of what it is doing. Ours is still a system of checks and balances. Therefore as the balance of government is placed more and more at the Federal level, the check of public awareness must be sharpened.

For more than a decade such groups as the American Newspaper Publishers Association, Sigma Delta Chi, the National Editorial Association, and the American Bar Association have urged enactment of this legislation. More than a year ago the Foreign Operations and Government Information Subcommittee of the Committee on Government Operations held extensive hearings on this legislation.

At that time Mr. John H. Colburn, editor and publisher of the Wichita, Kans., Eagle and Beacon, which is one of the outstanding daily newspapers in mid-America, testified in behalf of the American Newspaper Publishers Association.

Mr. Colburn pointed to a screen of secrecy which is a barrier to reporters, as representatives of the public—to citizens in pursuit of information vital to their business enterprises—and is a formidable barrier to many Congressmen seeking to carry out their constitutional functions.

Mr. Colburn, in testifying before the subcommittee, stated:

> Let me emphasize and reiterate the point made by others in the past: Reporters and editors seek no special privileges. Our concern is the concern of any responsible citizen. We recognize that certain areas of information must be protected and withheld in order not to jeopardize the security of this Nation. We recognize legitimate reasons for restricting access to certain other categories of information, which have been spelled out clearly in the proposed legislation.
>
> What disappoints us keenly—what we fail to comprehend is the continued opposition of Government agencies to a simple concept. That is the concept to share the legitimate business of the public with the people.

In calling for congressional action to protect the right to know of the people, Mr. Colburn declared:

> Good government in these complex periods needs the participation, support and encouragement of more responsible citizens. Knowing that they can depend on an unrestricted flow of legitimate information would give these citizens more confidence in our agencies and policymakers. Too many now feel frustrated and perplexed.
>
> Therefore, it is absolutely essential that Congress take this step to further protect the rights of the people, also to assure more ready access by Congress, by adopting this disclosure law.

Mr. Speaker, John Colburn and many other interested citizens have made a strong case for this legislation. It is regrettable that it has been bottled up in committee for so long a time.

This bill clarifies and protects the right of the public to essential information. This bill revises section 3 of the Administrative Procedure Act to provide a true Federal public records statute by requiring the availability, to any member of the public, of all of the executive branch records described in its requirements, except those involving matters which are within nine stated exemptions.

Under this legislation, if a request for information is denied, the aggrieved person has the right to file an action in a district court, and such court may order the production of any agency records that are improperly withheld. In such a trial, the burden of proof is correctly upon the agency.

It should not be up to the American public—or the press—to fight daily battles just to find out how the ordinary business of their government is being conducted. It should be the responsibility of the agencies and bureaus, who conduct this business, to tell them.

We have heard a great deal in recent times about a credibility gap in the pronouncements emanating from official Government sources. In recent years we heard an assistant secretary of defense defend the Government's right to lie. We have seen increasing deletion of testimony by administration spokesmen before congressional committees and there has been question raised whether this was done for security reasons or political reasons.

This legislation should help strengthen the public's confidence in the Government. Our efforts to strengthen the public's confidence in the Government. Our efforts to strengthen the public's right to know should not stop here. As representatives of the people we also should make sure our own house is in order. While progress has been made in reducing the number of closed-door committee sessions, the Congress must work to further reduce so-called executive sessions of House and Senate committees. Serious consideration should be given to televising and permitting radio coverage of important House committee hearings.

I hope that the Joint Committee on the Organization of the Congress will give serious considerations to these matters in its recommendations and report.

Mr. REID of New York. Mr. Speaker, I yield the remainder of my time to the gentleman from Illinois [Mr. RUMSFELD].

Mr. MONAGAN. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I am happy to yield to the distinguished gentleman from Connecticut, who serves on this subcommittee.

Mr. MONAGAN. Mr. Speaker, I wish to express my support for this legislation and also to commend the chairman of our subcommittee, who has literally come from his doctor's care to be here today to lead the House in the acceptance of this monumental piece of legislation. His work has been the sine qua non in bringing this important legislation to fruition.

Mr. Speaker, I am happy to support S. 1160, an act to clarify and protect the right of the public to information.

This legislation is a landmark in the constant struggle in these days of big government to preserve for the people access to the information possessed by their own servants. Certainly it is impossible to vote intelligently on issues unless one knows all the facts surrounding them and it is to keep the public properly informed that this legislation is offered today.

I should like to take this opportunity to congratulate our chairman, the gentleman from California [Mr. Moss] on

the passage of this significant bill. Over the years he has fought courageously and relentlessly against executive coverup of information which should be available to the people. The reporting and passage of this bill have come only after many years of constant work by the gentleman from California and as we send this bill to the President for signature our chairman should feel proud in the significant role that he has played in raising permanent standards of regulations on the availability of public information. This is a noteworthy accomplishment and will do much to maintain popular control of our growing bureaucracy.

I am happy to have worked with the Subcommittee on Foreign Operations and Government Information and with the House Committee on Government Operations on this bill and to have shared to some degree in the process which has refined this legislation, obtained concurrence of the executive branch and reaches its culmination now.

Mr. HARDY. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I am happy to yield to the distinguished gentleman from Virginia, who also served on the Subcommittee on Government Information.

Mr. HARDY. I thank my good friend for yielding and commend him for his work on this bill.

Mr. Speaker, I just wish to express my support for this measure. I should like for the Members of the House to know that I wholeheartedly support it, and that I am particularly happy the chairman of our subcommittee, the gentleman from California [Mr. Moss] is back with us today. I know he has not been in good health recently, and I am happy to see him looking so well. I congratulate him for the fine job he has done on this most important subject and I am glad to have been privileged to work with him on the subcommittee.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I yield to the gentleman from Iowa.

Mr. GROSS. I join my friend, the gentleman from Illinois, in support of this legislation, but I want to add that it will be up to the Congress, and particularly to the committee which has brought the legislation before the House, to see to it that the agencies of Government conform to this mandate of Congress. It will be meaningless unless Congress does do a thorough oversight job, and I have in mind the attempt already being made to destroy the effectiveness of the General Accounting Office as well as the efforts of the Defense Department to hide the facts.

Mr. RUMSFELD. The gentleman's comments are most pertinent. Certainly it has been the nature of Government to play down mistakes and to promote successes. This has been the case in the past administrations. Very likely this will be true in the future.

There is no question but that S. 1160 will not change this phenomenon. Rather, the bill will make it considerably more difficult for secrecy-minded bureaucrats to decide arbitrarily that the people should be denied access to information on the conduct of Government or on how an individual Government official is handling his job.

Mr. Speaker, the problem of excessive restrictions on access to Government information is a nonpartisan problem, as the distinguished chairman, the gentleman from California [Mr. Moss] has said. No matter what party has held the political power of Government, there have been attempts to cover up mistakes and errors.

Significantly, S. 1160 provides for an appeal against arbitrary decisions by spelling out the ground rules for access to Government information, and, by providing for a court review of agency decisions under these ground rules, S. 1160 assures public access to information which is basic to the effective operation of a democratic society.

The legislation was initially opposed by a number of agencies and departments, but following the hearings and issuance of the carefully prepared report—which clarifies legislative intent—much of the opposition seems to have subsided. There still remains some opposition on the part of a few Government administrators who resist any change in the routine of government. They are familiar with the inadequacies of the present law, and over the years have learned how to take advantage of its vague phrases. Some possibly believe they hold a vested interest in the machinery of their agencies and bureaus, and there is resentment to any attempt to oversee their activities either by the public, the Congress or appointed Department heads.

But our democratic society is not based upon the vested interests of Government employees. It is based upon the participation of the public who must have full access to the facts of Government to select intelligently their representatives to serve in Congress and in the White House. This legislation provides the machinery for access to government information necessary for an informed, intelligent electorate.

Mr. Speaker, it is a great privilege for me to be able to speak on behalf of Senate bill 1160, the freedom-of-information bill, which provides for establishment of a Federal public records law.

I believe that the strong bipartisan support enjoyed by S. 1160 is indicative of its merits and of its value to the Nation. Twice before, in 1964 and 1965, the U.S. Senate expressed its approval of this bill. On March 30, 1966, the House Subcommittee on Foreign Operations and Government Information favorably reported the bill, and on April 27, 1966, the House Committee on Government Operations reported the bill out with a do-pass recommendation. It remains for the House of Representatives to record its approval and for the President to sign the bill into law.

I consider this bill to be one of the most important measures to be considered by Congress in the past 20 years. The bill is based on three principles:

First, that public records, which are evidence of official government action, are public property, and that there should be a positive obligation to disclose this information upon request.

Second, this bill would establish a procedure to guarantee individuals access to specific public records, through the courts if necessary.

Finally, the bill would designate certain categories of official records exempt from the disclosure requirement.

I believe it is important also to state what the bill is not. The bill does not affect the relationship between the executive and legislative branches of Government. The report and the legislation itself specifically point out that this legislation deals with the executive branch of the Federal Government in its relationship to all citizens, to all people of this country.

The very special relationship between the executive and the legislative branches is not affected by this legislation.

As the bill and the report both state:

> Members of the Congress have all of the rights of access guaranteed to "any person" by S. 1160, and the Congress has additional rights of access to all Government information which it deems necessary to carry out its functions.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I yield to the gentleman from Kansas who has been very active in behalf of this legislation.

Mr. SKUBITZ. Mr. Speaker, I rise in support of S. 1160. Passage of this legislation will create a more favorable climate for the peoples right to know—a right that has too long languished in an environment of bureaucratic negativism and indifference.

From the beginning of our Republic until now, Federal agencies have wrongfully withheld information from members of the electorate. This is intolerable in a form of government where the ultimate authority must rest in the consent of government.

Democracy can only operate effectively when the people have the knowledge upon which to base an intelligent vote.

The bill grants authority to the Federal district court to order production of records improperly withheld and shifts the burden of proof to the agency which chooses to withold information.

If nothing else, this provision will imbue Government employees with a sense of caution about placing secrecy stamps on documents that a court might order to be produced at a later time. Thus inefficiency or worse will be less subject to concealment.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I am happy to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, may I ask the gentleman, will this enable a Member of Congress to secure the names of people who work for the Post Office Department or any other department?

Mr. RUMSFELD. I know the gentleman almost singlehandedly worked very effectively to bring about the disclosure of such information at a previous point in time. It is certainly my opinion, although the courts would ultimately make these decisions, that his efforts would

have been unnecessary had this bill been the law. Certainly there is no provision in this legislation that exempts from disclosure the type of information to which the gentleman refers that I know of.

Mr. QUIE. I thank the gentleman and want to commend him on the work he has done in bringing out this legislation. I believe it is an excellent bill.

GENERAL LEAVE TO EXTEND

Mr. REID of New York. Mr. Speaker, will the gentleman yield to me for 1 second?

Mr. RUMSFELD. I am happy to yield to the gentleman from New York, who serves as the ranking minority member of the subcommittee.

Mr. REID of New York. Mr. Speaker, in order that the gentleman may complete his statement, may I ask unanimous consent that any Member of the House may have 5 legislative days in which to include his thoughts and remarks in the RECORD on this bill?

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RUMSFELD. Mr. Speaker, in the seconds remaining, I do want to commend my colleague and good friend, the gentleman from California. As the able chairman of this subcommittee, he has worked diligently and effectively these past 11 years to secure a very important right for the people of this country. Bringing this legislation to the floor today is a proper tribute to his efforts. Certainly his work and the work of others whose names have been mentioned, the gentleman from Michigan, now a Member of the other body, Mr. GRIFFIN, who served so effectively as ranking minority member of our subcommittee and the ranking minority member of our full committee, the gentlewoman from New Jersey [Mrs. DWYER], all shared in the effort and work that resulted in this most important and throughtful piece of legislation.

Mr. Speaker, I do wish to make one other point about the bill. This bill is not to be considered, I think it is safe to say on behalf of the members of the committee, a withholding statute in any sense of the term. Rather, it is a disclosure statute. This legislation is intended to mark the end of the use of such phrases as "for good cause found," "properly and directly concerned," and "in the public interest," which are all phrases which have been used in the past by individual officials of the executive branch in order to justify, or at least to seem to justify, the withholding of information that properly belongs in the hands of the public. It is our intent that the courts interpret this legislation broadly, as a disclosure statute and not as an excuse to withhold information from the public.

I must add, that disclosure of Government information is particularly important today because Government is becoming involved in more and more aspects of every citizen's personal and business life, and so the access to information about how Government is exercising its trust becomes increasingly important. Also, people are so busy today bringing up families, making a living, that it is increasingly difficult for a person to keep informed. The growing complexity of Government itself makes it extremely difficult for a citizen to become and remain knowledgeable enough to exercise his responsibilities as a citizen; without Government secrecy it is difficult, with Government secrecy it is impossible.

Of course, withholding of information by Government is not new. The Federal Government was not a year old when Senator Maclay of Pennsylvania asked the Treasury Department for the receipts Baron von Steuben had given for funds advanced to him. Alexander Hamilton refused the request.

In the United States, three centuries of progress can be seen in the area of access to Government information. Based on the experience of England, the Founders of our Nation established—by law and by the acknowledgment of public men—the theory that the people have a right to know. At local, State, and Federal levels it has been conceded that the people have a right to information.

James Russell Wiggins, editor of the Washington Post, argues eloquently against Government secrecy in his book, "Freedom or Secrecy." He says:

> We began the century with a free government—as free as any ever devised and operated by man. The more that government becomes secret, the less it remains free. To diminish the people's information about government is to diminish the people's participation in government. The consequences of secrecy are not less because the reasons for secrecy are more. The ill effects are the same whether the reasons for secrecy are good or bad. The arguments for more secrecy may be good arguments which, in a world that is menaced by Communist imperialism, we cannot altogether refute. They are, nevertheless, arguments for less freedom.

In August of 1822, President James Madison said:

> Knowledge will forever govern ignorance. And a people who mean to be their own governors, must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both.

Thomas Jefferson, in discussing the obligation of the press to criticize and oversee the conduct of Government in the interest of keeping the public informed, said:

> Were it left to me to decide whether we should have a government without newspapers or newspaper without government, I should not besitate for a moment to prefer the latter. No government ought to be without censors; and where the press is free, none ever will.

President Woodrow Wilson said in 1913:

> Wherever any public business is transacted, wherever plans affecting the public are laid, or enterprises touching the public welfare, comfort or convenience go forward, wherever political programs are formulated, or candidates agreed on—over that place a voice must speak, with the divine prerogative of a people's will, the words: "Let there be light."

House Report No. 1497, submitted to the House by the Committe on Government Operations to accompany S. 1160, concludes:

> A democratic society requires an informed, intelligent electorate, and the intelligence of the electorate varies as the quantity and quality of its information varies. A danger signal to our democratic society in the United States is the fact that such a political truism needs repeating. And repeated it is, in textbooks and classrooms, in newspapers and broadcasts.
>
> The repetition is necessary because the ideals of our democratic society have outpaced the machinery which makes that society work. The needs of the electorate have outpaced the laws which guarantee public access to the facts in government. In the time it takes for one generation to grow up and prepare to join the councils of government—from 1946 to 1966—the law which was designed to provide public information about government has become the government's major shield of secrecy.
>
> S. 1160 will correct this situation. It provides the necessary machinery to assure the availability of government information necessary to an informed electorate.

Mr. Speaker, I was interested to learn that Leonard H. Marks, Director of the U.S. Information Agency—USIA—recently suggested before the Overseas Press Club in New York City the development of a treaty "guaranteeing international freedom of information." To be sure, this is a commendable suggestion, and one which I would be delighted to hear more about. For the time being, however, I am concerned with the freedom-of-information question here in the United States. Here is our basic challenge. And it is one which we have a responsibility to accept.

The political organization that goes by the name of the United States of America consists of thousands of governing units. It is operated by millions of elected and appointed officials. Our Government is so large and so complicated that few understand it well and others barely understand it at all. Yet, we must understand it to make it function better.

In this country we have placed all our faith on the intelligence and interest of the people. We have said that ours is a Government guided by citizens. From this it follows that Government will serve us well only if the citizens are well informed.

Our system of government is a testimony to our belief that people will find their way to right solutions given sufficient information. This has been a magnificient gamble, but it has worked.

The passage by the House of S. 1160 is an important step toward insuring an informed citizenry which can support or oppose public policy from a position of understanding and knowledge.

The passage of S. 1160 will be an investment in the future; an investment which will guarantee the continuation of our free systems guided by the people.

Mr. Speaker, I urge the passage of this legislation. It merits the enthusiastic support of each Member of the House of Representatives.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I will be happy to yield to the distinguished gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's comments. I hardly see how it can help but improve the practice of separation of the powers as it is conducted in the executive branch of the Government. However, in the days of the right to lie rather than no comment and in the days when reportorial services are being asked to be the handmaidens of Government rather than give them full disclosure, I think it is important to have this legislation.

Mr. Speaker, I want to express my strong support, and to urge the support of my colleagues for the freedom of information bill, designed to protect the right of the public to information relating to the actions and policies of Federal agencies. This bill has been a long time in coming, too long I might add, since the withholding of information, it is designed to prevent, has been a fact of life under the present administration.

I believe this bill is one of the most important pieces of legislation to be considered by Congress, and I support its enactment 100 percent.

As in all such bills, however, the mere passage of legislation will not insure the freedom of information which we hope to achieve. For there are many ways by which executive agencies, determined to conceal public information, can do so, if and when they desire. Where there is a will, there is a way, and while this bill will make that way more difficult, it will take aggressive legislative review and oversight to insure the public's right to know.

To indicate the challenge that lies ahead, I need only refer again to an article from the Overseas Press Club publication Dateline 66, which I inserted in the CONGRESSIONAL RECORD on May 12. Assistant Secretary of Defense for Public Affairs Arthur Sylvester was quoted by CBS Correspondent Morely Safer as saying at a background meeting that—

> Anyone who expects a public official to tell the truth is stupid—

And as if to emphasize his point, Sylvester was quoted as saying, again:

> Did you hear that? Stupid!

Subsequently, at Mr. Sylvester's request, I inserted his letter in reply to the charge, but, since that occasion, at least four other correspondents have confirmed the substance of Morely Safer's charges, and to this date to my knowledge, not a single correspondent present at that meeting in July of 1965, has backed up the Sylvester so-called denial.

So, I repeat that the passage of this legislation will not, in itself, insure the public's right to know, but it is an important first step in that direction. As long as there are people in the administration who wish to cover up or put out misleading information, it will take vigorous action by the Congress and the Nation's press to make our objectives a reality. Passage of this bill is a great step, on the part of the legislative branch of the U.S. Government, toward proper restoration of the tried and true principle of separation of powers.

Mr. DOLE. Mr. Speaker, will the gentleman yield to me?

Mr. RUMSFELD. I will be happy to yield to the distinguished gentleman from Kansas, who also serves on the Special Subcommittee on Government Information.

Mr. DOLE. Mr. Speaker, I rise in support of S. 1160, which would clarify and protect the right of the public to information.

Since the beginnings of our Republic, the people and their elected Representatives in Congress have been engaged in a sort of ceremonial contest with the executive bureaucracy over the freedom-of-information issue. The dispute has, to date, failed to produce a practical result.

Government agencies and Federal officials have repeatedly refused to give individuals information to which they were entitled and the documentation of such unauthorized withholding—from the press, the public, and Congress—is voluminous. However, the continued recital of cases of secrecy will never determine the basic issue involved, for the point has already been more than proven. Any circumscription of the public's right to know cannot be arrived at by congressional committee compilations of instances of withholding, nor can it be fixed by presidential fiat. At some point we must stop restating the problem, authorizing investigations, and holding hearings, and come to grips with the problem.

In a democracy, the public must be well informed if it is to intelligently exercise the franchise. Logically, there is little room for secrecy in a democracy. But, we must be realists as well as rationalists and recognize that certain Government information must be protected and that the right of individual privacy must be respected. It is generally agreed that the public's knowledge of its Government should be as complete as possible, consonant with the public interest and national security. The President by virtue of his constitutional powers in the fields of foreign affairs and national defense, without question, has some derived authority to keep secrets. But we cannot leave the determination of the answers to some arrogant or whimsical bureaucrat—they must be written into law.

To that end, I joined other members of this House in introducing and supporting legislation to establish a Federal public records law and to permit court enforcement of the people's right to know.

This bill would require every agency of the Federal Government to "make all its records promptly available to any person," and provides for court action to guarantee the right of access. The proposed law does, however, protect nine categories of sensitive Government information which would be exempted.

The protected categories are matters—

(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) related solely to the internal personnel rules and practices of any agency;

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the agency;

(6) personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and

(9) geological and geophysical information and data (including maps) concerning wells.

The bill gives full recognition to the fact that the President must at times act in secret in the exercise of his constitutional duties when it exempts from availability to the public matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy."

Thus, the bill takes into consideration the right to know of every citizen while affording the safeguards necessary to the effective functioning of Government. The balances have too long been weighted in the direction of executive discretion, and the need for clear guidelines is manifest. I am convinced that the answer lies in a clearly delineated and justiciable right to know.

This bill is not perfect, and some critics predict it will cause more confusion without really enhancing the public's right to know. In my opinion, it is at least a step in the right direction and, as was stated in an editorial in the Monday, June 13, issue of the Wichita Eagle:

> It's high time this bill became law. It should have been enacted years ago. Everyone who is interested in good government and his own rights must hope that its passage and the President's approval will be swift.

Mr. JOELSON. Mr. Speaker, I am pleased to support this legislation which protects the right of the public to information. I believe that in a democracy, it is vital that public records and proceedings must be made available to the public in order that we have a fully informed citizenry. I think that the only time that information should be withheld is where there are overriding considerations of national security which require secrecy, where disclosure might result in an unwarranted invasion of personal privacy, impede investigation for law enforcement purposes, or divulge valuable trade or commercial secrets.

Mr. ROSENTHAL. Mr. Speaker, as a member of the House Committee on Government Operations, I am particularly anxious to offer my strongest support for this measure, S. 1160, and praise for its cosponsor, the gentleman from California [Mr. Moss]. I would also like to offer my thanks to our distinguished chairman, the gentleman from Illinois [Mr. DAWSON] for his firm leadership in bringing this measure before the House.

In S. 1160, we have a chance to modernize the machinery of Government and in so doing, further insure a fundamental political right. Democracies derive legitimacy from the consent of the governed. And consent is authoritative when it is informed. In assuring the right of the citizenry to know the work of its Government, therefore, we provide a permanent check and review of power. And, as many of us on both sides of the aisle have pointed out, the continuous growth of Federal powers—particularly that of the executive branch—can be cause for general concern.

It is the disposition of bureaucracies to grow. And frequently, they cover and conceal many of their practices. Institutions as well as people can be ruled by self-interest.

Accordingly, the House Government Operations Committee, and its Subcommittee on Foreign Operations and Government Information, have given particular attention to the information policies of our executive agencies. Through extensive study, the committee has found important procedural loopholes which permit administrative secrecy and thus threaten the public's right to know. Continued vigilance in this area has, for example, revised the notorious housekeeping statute which allowed agencies to withhold certain records. Similar pressure from Congress resulted in President Kennedy's and President Johnson's limitation of the use of Executive privilege in information policy.

The measure before us today continues the search for more open information procedures. For 20 years, the Administrative Procedure Act, in section III, has been an obstacle rather than a means to information availability. The section has usually been invoked to justify refusal to disclose. In the meantime, members of the public have had no remedy to force disclosures or appeal refusals. Our entire information policy, therefore, has been weighed against the right to know and in favor of executive need for secrecy.

I believe S. 1160 takes important steps to rectify that imbalance. Certain ambiguities in section III of the Administrative Procedure Act are clarified. Thus, the properly and directly concerned test access to records is eliminated. Records must now be made available, in the new language, to "any person." Instead of the vague language of "good cause found" and "public interest," new standards for exemptable records are specified. And, perhaps most important, aggrieved citizens are given appeal rights to U.S. district courts. This procedure will likely prove a deterrent against excessive or questionable withholdings.

This legislation, Mr. Speaker, should be of particular importance to all Members of Congress. We know, as well as anyone, of the need to keep executive information and practices open to public scrutiny. Our committee, and particularly our subcommittee, headed by our energetic colleague from California, has put together proposals which we believe will reinforce public rights and democratic review.

Mr. POFF. Mr. Speaker. it was my privilege to support S. 1160 today designed to protect the right of the American public to receive full and complete disclosures from the agencies of their Government.

Today, as never before, the Federal Government is a complex entity which touches almost every fiber of the fabric of human life. Too often, the overzealous bureaucrat uses his discretionary power to blot out a bit of intelligence which the people have the right to know. This is true not only with respect to military activities for which there may, on occasion, be a valid reason for withholding full disclosure until after the execution of a particular military maneuver, but also in the case of strictly political decisions in both foreign and domestic fields.

Thomas Jefferson once said that if he could choose between government without newspapers or newspapers without government, he would unhesitatingly choose the latter. The press, in performing its responsibility of digging out facts about the operation of the giant Federal Government should not be restricted and hampered. Yet there are some 24 classifications used by Federal agencies to withhold information from the American people. When Government officials make such statements as "a government has the right to lie to protect itself" and "the only thing I fear are the facts," it is obvious that the need for collective congressional action in the field of public information is acute. In the unique American system, the people need to know all the facts in order that their judgments may be based upon those facts. Anything less is a dilution of the republican form of government.

Mr. BENNETT. Mr. Speaker, legislation of this type has been long needed. The delay, however, is easy to understand because it is a difficult subject in which to draw the precise lines needed without overstepping into areas that might be dangerous to our country. It is my belief that the measure before us does handle the matter in a proper and helpful manner and I am glad to support it.

Mr. CLANCY. Mr. Speaker, a number of important duties and engagements in Cincinnati prevent me from being on the House floor today. However, if it were possible for me to be present today, I would vote for the Freedom of Information Act, S. 1160.

The problem of Government secrecy and news manipulation has reached appalling proportions under the current administration. Both at home and abroad, the credibility of the U.S. Government has repeatedly been called into question.

Not only has the truth frequently been compromised, but in some instances Government spokesmen have more than distorted the facts, they have denied their existence. This shroud of secrecy and deception is deplorable. The man in the street has a right to know about his Government, and this includes its mistakes.

The Cincinnati Enquirer has, in two editorials on the subject of the public's right to know the truth about the activities of its Government, called for passage of the legislation we are considering today. I include these editorials with my remarks at this point because I believe they will be of interest to my colleagues:

[From the Cincinnati (Ohio) Enquirer, June 15, 1966]

LET'S OPEN UP FEDERAL RECORDS

Next Monday the House of Representatives is scheduled to come finally to grips with an issue that has been kicking around official Washington almost since the birth of the Republic—an issue that Congress thought was solved long ago. The issue, in briefest form, is the public's right to know.

Most Americans probably imagine that their right to be informed about what their government is doing is unchallenged. They may wonder about the need for any legislation aimed at reaffirming it. But the fact of the matter is that the cloak of secrecy has been stretched to conceal more and more governmental activities and procedures from public view. Many of these activities and procedures are wholly unrelated to the nation's security or to individual Americans' legitimate right to privacy. They are matters clearly in the public realm.

The legislation due for House consideration next Monday is Senate Bill 1160, the product of a 13-year study of the entire problem of freedom of information directed by Representative JOHN E. MOSS (R., Calif.). The bill has already won Senate approval, and only an affirmative House vote next Monday is necessary to send it to President Johnson's desk.

All of the 27 Federal departments and agencies that have sent witnesses to testify before the House subcommittee that conducted hearings on the bill have opposed it. One complaint is that the issue is too complex to be dealt with in a single piece of legislation.

But Representative Moss feels—and a Senate majority obviously agrees with him—that the right of Federal officials to classify government documents has been grossly misused to conceal errors and to deny the public information it is entitled to have.

The bill makes some clear and necessary exemptions—national defense and foreign policy secrets, trade secrets, investigatory files, material collected in the course of labor-management mediation, reports of financial institutions, medical files and papers designed solely for the internal use of a governmental agency.

Most important, perhaps, the bill would put on the governmental agency the burden of proving that a particular document should be withheld from public view. As matters stand today, the person who seeks a particular document must prove that it is being improperly withheld; the Moss bill would require that the Federal agency involved prove that its release would be detrimental.

It may be easy for rank-and-file Americans to imagine that the battle Representative Moss has been leading for more than a decade is a battle in the interests of the Nation's information media. But the right of a free press is not the possession of the publishers and editors; it is the right of the man in the street to know. In this case, it is his right to know about his government—its failures and errors, its triumphs and its expenditures.

The House should give prompt approval to Senate Bill 1160, and President Johnson should sign it when it reaches his desk.

[From the Cincinnati (Ohio) Enquirer, May 29, 1966]

THE RIGHT TO KNOW

It is easy for many Americans to fall into the habit of imagining that the constitutional guarantees of a free press are a matter

of interest and concern only to America's newspaper publishers. And perhaps there are still a few publishers who entertain the same notion.

In reality, however, the right to a free press is a right that belongs to the public. It is the man in the street's right to know—in particular, his right to know what his servants in government are doing. Unhappily, however, it is a right whose preservation requires a battle that is never fully won. For at every level of government, there are officials who think that their particular province should be shielded from public scrutiny.

Another important stride in the right direction came the other day when the House Government Operations Committee unanimously approved a freedom of information bill (Senate Bill 1160). The bill is an attempt to insure freedom of information without jeopardizing the individual's right of privacy. It exempts nine specific categories of information—including national security, the investigative files of law enforcement agencies and several others. But it clearly reaffirms the citizen's right to examine the records of his government and the right of the press to do the same in his behalf.

Senate Bill 1160 is the culmination of a 10-year effort to clarify the provisions of the Administrative Procedure Act, which is so broad that it permits most Federal agencies to define their own rules on the release of information to the press and the public.

The House should press ahead, accept the recommendations of its committee and translate Senate Bill 1160 into law.

Mr. EDWARDS of Alabama. Mr. Speaker, I rise in support of S. 1160 which is effectively the same as my bill, H.R. 6739, introduced March 25, 1965.

This measure should have been approved and signed into law long ago as a means of giving the American citizen a greater measure of protection against the natural tendencies of the bureaucracy to prevent information from circulating freely.

I am hopeful that in spite of the President's opposition to this bill, and in spite of the opposition of executive branch agencies and departments, the President will not veto it.

This measure will not by any means solve all of our problems regarding the citizen's right to know what his Government is doing. It will still be true that we must rely on the electorate's vigorous pursuit of the information needed to make self-government work. And we will still rely on the work of an energetic and thorough corps of news reporters.

As an example of the need for this bill I have previously presented information appearing on page 12600 of the CONGRESSIONAL RECORD for June 8. It shows that one Government agency has made it a practice to refuse to yield information which is significant to operation of the law.

This kind of example is being repeated many times over. In a day of swiftly expanding Government powers, and in a day on which thoughtful citizens the country over are concerned with the encroachment of Government into the lives of all of us, the need for this bill is clear.

Mrs. REID of Illinois. Mr. Speaker, as the sponsor of H.R. 5021, one of the companion bills to S. 1160 which we are considering today, I rise in support of the public's right to know the facts about the operation of their Government. I rise, also, in opposition to the growing and alarming trend toward greater secrecy in the official affairs of our democracy.

It is indeed incongruous that although Americans are guaranteed the freedoms of the Constitution, including freedom of the press, there is no detailed Federal statute outlining the orderly disclosure of public information so essential to proper exercise of this freedom. Yet, the steady growth of bigger government multiplies rather than diminishes the need for such 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 appropriate 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 necessary that free people be well informed, and we need only to look behind the Iron Curtain 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. We recognize today that the Administrative Procedure Act of 1946, while a step in the right direction, is now most inadequate to deal with the problems of disclosure which arise almost daily in a fast-moving and technological age—problems which serve only to lead our citizens to question the integrity and credibility of their Government and its administrators.

But while I do not condone indiscriminate and unauthorized withholding of public information by any Government official, the primary responsibility, in my judgment, rests with us in the Congress. We, as the elected representatives of the people, must provide an explicit and meaningful public information law, and we must then insure that the intent of Congress is not circumvented in the future. The Senate recognized this responsibility when it passed S. 1160 during the first session last year, and I am hopeful that Members of the House will overwhelmingly endorse this measure before us today.

I do not believe that any agency of Government can argue in good faith against the intent of this legislation now under consideration, for the bill contains sufficient safeguards for protecting vital defense information and other sensitive data which might in some way be detrimental to the Government or individuals if improperly released. S. 1160 contains basically the same exceptions as recommended in my bill—H.R. 5021. In sponsoring H.R. 5021, I felt that it would enable all agencies to follow a uniform system to insure adequate dissemination of authorized information, thereby removing much of the confusion resulting from differing policies now possible under existing law.

Government by secrecy, whether intentional or accidental, benefits no one and, in fact, seriously injures the people it is designed to serve. This legislation will establish a much-needed uniform policy of disclosure without impinging upon the rights of any citizen. S. 1160 is worthy legislation, and it deserves the support of every one of us.

Mr. RHODES of Arizona. Mr. Speaker, at a recent meeting of the House Republican policy committee a policy statement regarding S. 1160, freedom-of-information legislation, was adopted. As chairman of the policy committee, I would like to include at this point in the RECORD the complete text of this statement:

REPUBLICAN POLICY COMMITTEE STATEMENT ON FREEDOM OF INFORMATION LEGISLATION, S. 1160

The Republican Policy Committee commends the Committee on Government Operations for reporting S. 1160. This bill clarifies and protects the right of the public to essential information. Subject to certain exceptions and the right to court review, it would require every executive agency to give public notice or to make available to the public its methods of operation, public procedures, rules, policies, and precedents.

The Republican Policy Committee, the Republican Members of the Committee on Government Operations, and such groups as the American Newspaper Publishers Association, the professional journalism society Sigma Delta Chi, the National Editorial Association and the American Bar Association have long urged the enactment of this legislation. Due to the opposition of the Johnson-Humphrey Administration, however, this proposal has been bottled up in Committee for over a year. Certainly, information regarding the business of the government should be shared with the people. The screen of secrecy which now exists is a barrier to reporters as representatives of the public, to citizens in pursuit of information vital to their welfare, and to Members of Congress as they seek to carry out their constitutional functions.

Under this legislation, if a request for information is denied, the aggrieved person has a right to file an action in a U.S. District Court, and such court may order the production of any agency records that are improperly withheld. So that the court may consider the propriety of withholding, rather than being restricted to judicial sanctioning of agency discretion, the proceedings are de novo. In the trial, the burden of proof is correctly placed upon the agency. A private citizen cannot be asked to prove that an agency has withheld information improperly for he does not know the basis for the agency action.

Certainly, as the Committee report has stated: "No Government employee at any level believes that the 'public interest' would be served by disclosure of his failures or wrongdoings . . ." For example, the cost estimates submitted by contractors in connection with the the multimillion-dollar deep sea "Mohole" project were withheld from the public even through it appeared that the firm which had won the lucrative contract had not submitted the lowest bid. Moreover, it was only as a result of searching inquiries by the press and Senator KUCHEL (R., Cal.) that President Kennedy intervened to reverse the National Science Foundation's decision that it would not be "in the public interest" to disclose these estimates.

The requirements for disclosure in the present law are so hedged with restrictions that it has been cited as the statutory authority for 24 separate classifications devised by Federal agencies to keep administrative information from public view. Bureaucratic gobbledygook used to deny access to information has included such gems as: "Eyes Only," "Limited Official Use," "Confidential Treatment," and "Limitation on Availability of Equipment for Public Reference." This paper

curtain must be pierced. This bill is an important first step.

In this period of selective disclosures, managed news, half-truths, and admitted distortions, the need for this legislation is abundantly clear. High officials have warned that our Government is in grave danger of losing the public's confidence both at home and abroad. The credibility gap that has affected the Administration pronouncements on domestic affairs and Vietnam has spread to other parts of the world. The on-again, off-again, obviously less-than-truthful manner in which the reduction of American forces in Europe has been handled has made this country the subject of ridicule and jokes. "Would you believe?" has now become more than a clever saying. It is a legitimate inquiry.

Americans have always taken great pride in their individual and national credibility. We have recognized that men and nations can be no better than their word. This legislation will help to blaze a trail of truthfulness and accurate disclosure in what has become a jungle of falsification, unjustified secrecy, and misstatement by statistic. The Republican Policy Committee urges the prompt enactment of S. 1160.

Mr. SCHMIDHAUSER. Mr. Speaker, I believe approval of S. 1160 is absolutely essential to the integrity and strength of our democratic system of government because as the Federal Government has extended its activities to help solve the Nation's problems, the bureaucracy has developed its own form of procedures and case law, which is not always in the best interests of the public. Under the provisions of this measure, these administrative procedures will have to bear the scrutiny of the public as well as that of Congress. This has long been overdue.

Mr. ROUSH. Mr. Speaker, I rise in support of this freedom of information bill. I felt at the time it was acted upon by the Government Operations Committee, of which I am a member, that it was one of the most significant pieces of legislation we had ever acted upon. In a democracy the government's business is the people's business. When we deprive the people of knowledge of what their government is doing then we are indeed treading on dangerous ground. We are trespassing on their right to know. We are depriving them of the opportunity to examine critically the efforts to those who are chosen to labor on their behalf. The strength of our system lies in the fact that we strive for an enlightened and knowledgeable electorate. We defeat this goal when we hide information behind a cloak of secrecy. We realize our goal when we make available, to those who exercise their right to choose, facts and information which which lead them to enlightened decisions.

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of S. 1160. The purpose of this bill is to amend section 3 of the Administrative Procedures Act and thereby to lift the veil of secrecy that makes many of the information "closets" of executive agencies inaccessible to the public. The basic consideration involved in passage of this bill, which will clarify and protect the right of the public to information, is that in a democracy like ours the people have an inherent right to know, and government does not have an inherent right to conceal.

Certainly to deny to the public information which is essential neither to government security nor to internal personal and practical functions is to deny any review of policies, findings, and decisions. It would be hard to imagine any agency, including those of executive charter, which is entitled to be above public examination and criticism.

The need for legislation to amend the present section of the Administrative Procedures Act is especially apparent when we consider that much of the information now withheld from the public directly affects matters clearly within the public domain.

For too long and with too much enthusiasm by some Goverment agencies and too much acquiescence by the public, executive agencies have become little fiefdoms where the head of a particular agency assumes sole power to decide what information shall be made available and then only in an attitude of noblessé oblige.

S. 1160 will amend section 3 of the Administrative Procedures Act by allowing any person access to information—not just those "persons properly and directly concerned." And if access is denied to him he may appeal the agency's decision and apply to the Federal courts.

Consider the contractor whose low bid has been summarily rejected without any logical explanation or the conscientious newspaperman who is seeking material for a serious article that he is preparing on the operations of a particular agency of Government. In many instances if records can in one fashion or another be committed to the "agency's use only" or "Government security" filing cabinets, the contractor or newsman will be denied information simply by having the agency classify him as a person not "properly and directly concerned." When this occurs, the arbitrary use of the power of government can thwart an investigation which is in the public interest.

It was Thomas Jefferson who wrote:

I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man.

It is precisely this tyranny over the "mind of man" which is aided and abetted by a lack of freedom of information within government.

I support the efforts contained within this bill to at least partially unshackle some of the restraints on the free flow of legitimate public information that have grown up within bureaucracy in recent years.

Mr. ROGERS of Florida. Mr. Speaker, in a time where public records are more and more becoming private instruments of the Government and personal privacy part of Government record, I am pleased that we are taking steps to eliminate part of the cloud of secrecy which has covered so many parts of the Government.

As an instrument of the people, we have long had the obligation under the Constitution to lay bare the mechanics of government. But the growing tendency, I am afraid, has been to cover up through administrative "magic," much of that information which is public domain.

Through this legislation we will emphasize once again the public's right to know. It is through sheer neglect that we must again define persons "directly concerned" as the American public. For they are the most concerned. The American public must have the right of inspection into its own government or that government fails to belong to the public.

Doling out partial information only cripples the electorate which needs to be strong if a democratic government is to exist.

But this is only half the battle in keeping the scales of democracy in balance. While we are striving to keep the citizens informed in the workings of their government, we must also protect the citizen's right of privacy.

The alarming number of instances of governmental invasion into individual privacy is as dangerous, if not more so, than the instances of governmental secrecy. At almost every turn the Government has been encroaching without law into the business—and yes, even into the private thoughts—of the individual.

This is probably the fastest growing and potentially the most dangerous act in our Nation today.

The instances of wiretapping by governmental agencies have become so commonplace that it no longer stuns the average citizen. But such a repulsive act cannot afford to go uncorrected. Such practices should never be permitted without a court order.

When we discover the training of lockpickers, wiretappers, safecrackers, and eavesdroppers in governmental agencies, the bounds of a democratic society have been overstepped and we approach the realm of a police state.

Let us not be satisfied that we are correcting some of the evils of a much too secretive bureaucracy.

Let us also remember that if we do not stop those inquisitive tentacles which threaten to slowly choke all personal freedoms, we will soon forget that our laws are geared to protect personal liberty.

"Where law ends," William Pitt said, "Tyranny begins."

Action is also needed by the Congress to stop this illegal and unauthorized governmental invasion of a citizen's privacy.

Mr. GALLAGHER. Mr. Speaker, history and American tradition demand passage today of the freedom of information bill. This measure not only will close the final gap in public information laws, but it will once and for all establish the public's right to know certain facts about its government.

In recent years we have seen both the legislative and the executive branches of our Government demonstrate a mutual concern over the increase of instances within the Federal Government in which information was arbitrarily denied the press or the public in general. In 1958, Congress struck down the practice under which department heads used a Federal statute, permitting them to regulate the storage and use of Government records, to withhold these records from the pub-

lic. Four years later, President Kennedy limited the concept of "Executive privilege," which allowed the President to withhold information from Congress, to only the President, and not to his officers. President Johnson last year affirmed this limitation.

But one loophole remains: Section 3 of the Administrative Procedure Act of 1946, the basic law relating to release of information concerning agency decisions and public access to Government records. S. 1160 would amend this section.

Congress enacted this legislation with the intent that the public's right to information would be respected. Unfortunately, some Government officials have utilized this law for the diametrically opposed use of withholding information from Congress, the press, and the public.

Under the cloak of such generalized phrases in section 3 as "in the public interest" or "for good cause found," virtually any information, whether actually confidential or simply embarrassing to some member of the Federal Government, could be withheld. As Eugene Paterson, editor of the Atlanta Constitution and chairman of the Freedom of Information Committee of the American Society of Newspapers said, such justifications for secrecy "could clap a lid on just about anybody's out-tray."

But more than contemporary needs, this bill relates to a pillar of our democracy, the freedom expressed in the first amendment guaranteeing the right of speech.

Inherent in the right to speak and the right to print was the right to know—

States Dr. Harold L. Cross, of the ASNE's Freedom of Information Committee. He pointed out:

The right to speak and the right to print, without the right to know, are pretty empty.

James Madison, who was chairman of the committee that drafted the first Constitution, had this to say:

Knowledge will forever govern ignorance, and a people who mean to be their own governors, must arm themselves with the power knowledge gives. A popular government without popular information or means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both.

This is the crux of the question. A free society needs the information required for judgments about the operation of its elected representatives, or it is no longer a free society. Naturally, a balance has to be maintained between the public's right to know and individual privacy and national security.

It is here that the freedom of information bill comes to grips with the central problem of the issue by substituting nine specific exemptions to disclosure for general categories, and by setting up a court review procedure, under which an aggrieved citizen could appeal with the withholding of information to a U.S. district court.

One of the most important provisions of the bill is subsection C, which grants authority to the Federal district courts to order production of records improperly withheld. This means that for the first time in the Government's history, a citizen will no longer be at the end of the road when his request for a Government document arbitrarily has been turned down by some bureaucrat. Unless the information the citizen is seeking falls clearly within one of the exemptions listed in the bill, he can seek court action to make the information available.

An important impact of the provision is that in any court action the burden of the proof for withholding is placed solely on the agency. As might be expected, Government witnesses testifying before the House Foreign Operations and Government Information Subcommittee on the bill, vigorously opposed the court provision. They particularly did not like the idea that the burden of proof for withholding would be placed on the agencies, arguing that historically, in court actions, the burden of proof is the responsibility of the plaintiff. But, as the committee report points out:

A private citizen cannot be asked to prove that an agency has withheld information improperly because he will not know the reasons for the agency action.

It can be anticipated that the judicial review provision, if nothing else, will have a major salutary effect, in that Government employees, down the line, are going to be very cautious about placing a secrecy stamp on a document that a district court later might order to be produced. A monumental error in judgment of this type certainly will not enhance an employee's status with his superiors, nor with anyone else in the executive branch.

I am glad to note the judicial review section has an enforcement clause which provides that if there is a noncompliance with a court order to produce records, the responsible agency officers can be cited for contempt.

There has been some speculation that in strengthening the right of access to Government information, the bill, as drafted, may inadvertently permit the disclosure of certain types of information now kept secret by Executive order in the interest of national security.

Such speculation is without foundation. The committee, throughout its extensive hearings on the legislation and in its subsequent report, has made it crystal clear that the bill in no way affects categories of information which the President—as stated in the committee report—has determined must be classified to protect the national defense or to advance foreign policy. These areas of information most generally are classified under Executive Order No. 10501.

I would like to reiterate that the bill also prevents the disclosure of other types of "sensitive" Government information such as FBI files, income tax auditors' manual, records of labor-management mediation negotiations and information a private citizen voluntarily supplies.

The FBI would be protected under exemption No. 7 prohibiting disclosures of "investigatory files." Income tax auditors' manual would be protected under No. 2—"related solely to internal personnel rules and practices." Details of labor-management negotiations would be protected under No. 4—"trade secrets and commercial or financial information." Information from private citizens would be protected under No. 6—information which would be an "invasion of privacy."

With the Government becoming larger and more complex, now is the time for Congress to establish guidelines for informational disclosure. As secrecy in Government increases, freedom of the people decreases; and the less citizens know about their Government, the more removed they become from its control. The freedom of information bill, Mr. Speaker, gives meaning to the freedom of speech amendment.

Mr. GURNEY. Mr. Speaker, I intend to vote in favor of this vitally important freedom of information bill. With all we hear about the necessity of "truth" bills, such as truth in lending and truth in packaging, I think it is significant that the first of these to be discussed on the floor of this House should be a "truth in Government" bill.

Surely there can be no better place to start telling the truth to the people of America than right here in their own Government. This is especially true in a time such as we have now, when the "credibility gap" is growing wider every day. It has come to the point where even Government leaders cannot believe each other.

This is a bill that should not be necessary—there should be no question but that records of a nonsecurity and nonpersonal nature ought to be available to the public. But recent practice in many agencies and departments has made more than clear the need for action such as we are taking today.

We cannot expect the American people to exercise their rights and repsonsibilities as citizens when they cannot even find out what their Government is doing with their money. If it were permitted to continue, this policy of secrecy could be the cornerstone of a totalitarian bureaucracy. Even today it constitutes a serious threat to our democratic institutions.

It is not only the citizens and the press who cannot get information from their Government. Even Senators and Members of the House of Representatives are told by nonsecurity departments that such routine information as lists of their employees will not be furnished them. Incredible as this is, I think most of us here have run into similar roadblocks.

The issue is a simple one: that the public's business ought to be open to the public. Too many agencies seem to have lost sight of the fact that they work for the American people. When this attitude is allowed to flourish, and when the people no longer have the right to information about their Government's activities, our system has been seriously undermined.

The bill we consider today is essential if we are to stop this undermining and restore to our citizens their right to be well-informed participants in their Government.

I urge my colleagues to join me in voting for the passage of this bill.

Mrs. DWYER. Mr. Speaker, the present bill is one of the most important to be considered during the 89th Congress.

It goes to the heart of our representative and democratic form of government. If enacted, and I feel certain it will be, it will be good for the people and good for the Federal Government.

This bill is the product of 10 years of effort to strengthen the people's right to know what their Government is doing, to guarantee the people's access to Government records, and to prevent Government officials from hiding their mistakes behind a wall of official secrecy.

During these 10 years, we have conducted detailed studies, held lengthy and repeated hearings, and compiled hundreds of cases of the improper withholding of information by Government agencies. Congress is ready, I am confident, to reject administration claims that it alone has the right to decide what the public can know.

As the ranking minority member of the Committee on Government Operations, and as a sponsor of legislation similar to the pending bill, I am proud to pay tribute to the chairman and members of the Subcommittee on Foreign Operations and Government Operations for the long and careful and effective work they have done in alerting the country to the problem and in winning acceptance of a workable solution.

Under present law, Mr. Speaker, improper withholding of information has increased—largely because of loopholes in the law, vague and undefined standards, and the fact that the burden of proof is placed on the public rather than on the Government.

Our bill will close these loopholes, tighten standards, and force Federal officials to justify publicly any decision to withhold information.

Under this legislation, all Federal departments and agencies will be required to make available to the public and the press all their records and other information not specifically exempted by law. By thus assuring to all persons the right of access to Government records, the bill will place the burden of proof on Federal agencies to justify withholding of information. And by providing for court review of withholding of information, the bill will give citizens a remedy for improper withholding, since Federal district courts will be authorized to order the production of records which are found to be improperly withheld.

On the other hand, Mr. Speaker, the legislation is designed to recognize the need of the Government to prevent the dissemination of official information which could damage the national security or harm individual rights. Among the classes of information specifically exempted from the right-to-know provisions of the bill are national defense and foreign policy matters of classified secrecy as specifically determined by Executive order, trade secrets and private business data, and material in personnel files relating to personal and private matters the use of which would clearly be an invasion of privacy.

Aside from these and related exceptions, relatively few in number, it is an unassailable principle of our free system that private citizens have a right to obtain public records and public information for the simple reason that they need it in order to behave as intelligent, informed and responsible citizens. Conversely, the Government has an obligation, which the present bill makes clear and concrete, to make this information fully available without unnecessary exceptions or delay—however embarrassing such information may be to individual officials or agencies or the administration which happens to be in office.

By improving citizens' access to Government information, Mr. Speaker, this legislation will do two things of major importance: it will strengthen citizen control of their Government and it will force the Government to be more responsible and prudent in making public policy decisions.

What more can we ask of any legislation?

Mr. MATSUNAGA. Mr. Speaker, I rise in support of S. 1160, a bill to clarify and protect the right of the public to information, and to commend the gentleman from California [Mr. Moss] and his subcommittee for reporting the bill out. As chairman of the subcommittee, the gentleman from California [Mr. Moss] has devoted 10 years to a fight for acceptance by the Congress of freedom-of-information legislation. It was not until 1964 that such a bill was passed by the Senate.

Last year the Senate again acted favorably on such a bill and now in this House, the Subcommittee on Government Operations has finally reported the bill to the floor principally through the effort of the gentleman from California [Mr. Moss].

The passage of this bill is in culmination of his long and determined effort to protect the American public from the evils of secret government. Although there has been some talk that the Government agencies are against this measure, the President will certainly not veto it. When signed into law, this bill will serve as a lasting monument to the distinguished and dedicated public servant from California, Mr. JOHN E. MOSS.

As it has been analytically observed by the editor of the Honolulu Star-Bulletin:

> What is demanded is not the right to snoop. What is demanded is the people's right to know what goes on in the government that rules them with their consent.
>
> Representative government—government by the freely elected representatives of the people—succeeds only when the people are fully informed.
>
> All sorts of evils can hide in the shadows of governmental secrecy. History has confirmed time and again that when the spotlight is turned on wrongdoing in public life, the people are quick to react.
>
> Freedom of information—the people's right to know—is the best assurance we have that our government will operate as it should in the public interest.

Mr. Speaker, I congratulate the gentleman from California [Mr. Moss] upon his final success in his untiring efforts, for there is no doubt in my mind that this bill will pass without any dissenting vote, but I nevertheless urge unanimous vote.

Mr. HUNGATE. Mr. Speaker, democratic forms of government, in order to be truly representative of popular will, need to be readily accessible and responsive to the demands of the people. Our system of government has characteristically offered numerous avenues of access open to the people. It is equally true that, down through the years, our governmental machinery has grown increasingly complex, not only in regard to size, but in the performance of its activities as well. This growing complexity has, quite justifiably, brought to ultimate fruition a revitalized awareness and concern for the need and right of the people to have made available to them information about the affairs of their Government.

S. 1160, the Federal Public Records Act, a bill authored by my distinguished and capable colleague from Missouri, Senator EDWARD V. LONG, captures the imagination of countless millions of responsible Americans, who know only too well the frustration of being rejected information to which they justly deserve access.

For far too long, guidelines for the proper disclosure of public information by the Government have been ambiguous and at times have placed unwarranted restraint on knowledge that, according to our democratic tradition, should be made readily available to a free and literate society.

Mr. Speaker, I congratulate the gentleman from California, [Mr. Moss], chairman of the Government Information Subcommittee of the House of Representatives, and my colleague from Missouri, Senator EDWARD V. LONG, for their spirited conviction and farsightedness in working for this historical landmark for freedom. It is both an honor and privilege to support the passage of this bill.

Mr. CLARENCE J. BROWN, JR. Mr. Speaker, I should like to go on record as favoring S. 1160, the freedom of information bill; H.R. 13196, the Allied Health Professions Training Act; and H.R. 15119, the Unemployment Insurance Amendments of 1966. All of these measures passed the House last week, but my vote was unrecorded due to my absence from the House when the bills were acted upon.

During this period I was in Georgia, where I had the pleasure of addressing the Georgia Press Association, to meet a commitment made several months ago when I was named judge of the Georgia Press Association's annual Better-Newspapers Contest.

My absence from the House came at a time when it was apparent that no very controversial legislation would be up for consideration and vote. These three bills passed either unanimously or with a very small negative vote.

As you might properly assume from the reason for my absence, I am particularly interested in and pleased with the passage of the freedom of information bill, which originated in the Government Operations Committee on which I serve.

I am also pleased at the passage of H.R. 15119, the unemployment insurance amendments bill, which provides for a long overdue modernization of the Federal-State unemployment compensation system.

These bills have long been needed, and I am proud to be a Member of the House in the 89th Congress at the time of their passage.

As a newspaper publisher and radio station manager, I have been interested in public access to public records and public business since my journalistic career began. As a member of Sigma Delta Chi, and a past president of the Central Ohio Professional Chapter of Sigma Delta Chi, I am dedicated to the proposition expressed in the biblical admonition that the "truth shall make men free." I am also a supporter of Jefferson's view suggesting that, given a choice between government without newspapers and newspapers without government, I would prefer the latter.

If one cannot support the principle of the availability to the public of its governmental records, as covered in this bill, one cannot support the principle of freedom and democracy upon which our Nation is built.

While a I feel the freedom of information bill could still be strengthened in some respects, I am delighted with it as a tremendous step in reaffirming the peoples' right to know. Every good journalist also rejoices, because the bill will make easier the job of the dedicated, inquiring newspaperman. It will not prevent "government by press release" or the seduction of some reporters by thinking that "handouts" tell the whole story. but it does make life a little easier for all of us who just want to get the facts, Mr. Speaker.

While the record will show that I was paired in favor of all three of these bills, I did want to take this opportunity to express my support publicly for them and, in particular, for the freedom of information bill, which I think is a real milestone for this Nation.

The SPEAKER. The question is on the motion of the gentleman from California [Mr. Moss], that the House suspend the rules and pass the bill S. 1160.

The question was taken; and the Speaker announced that two-thirds had voted in favor thereof.

Mr. REID of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 308, nays 0, not voting 125, as follows:

[Roll No. 147]

YEAS—308

Abbitt	Bandstra	Broomfield
Abernethy	Baring	Brown, Calif.
Adams	Barrett	Broyhill, N.C.
Albert	Bates	Broyhill, Va.
Anderson, Ill.	Battin	Buchanan
Anderson, Tenn	Beckworth	Burke
Andrews, George W.	Belcher	Burleson
Andrews, Glenn	Bell	Burton, Calif.
Arends	Bennett	Burton, Utah
Ashbrook	Betts	Byrne, Pa.
Aspinall	Bingham	Byrnes, Wis.
Ayres	Boggs	Cabell
	Boland	Callan
	Brademas	Cameron
	Brock	Carey
	Carter	Hungate
	Casey	Hutchinson
	Cederberg	Ichord
	Chamberlain	Irwin
	Chelf	Jacobs
	Clark	Jarman
	Clawson, Del	Joelson
	Cleveland	Johnson, Calif.
	Clevenger	Johnson, Okla.
	Colmer	Johnson, Pa.
	Conable	Jones, Ala.
	Conte	Jones, Mo.
	Corbett	Karsten
	Curtis	Karth
	Dague	Kastenmeier
	Daniels	Kelly
	Davis, Wis.	King, Calif.
	Dawson	King, Utah
	de la Garza	Kirwan
	Denton	Kornegay
	Derwinski	Krebs
	Devine	Kunkel
	Dickinson	Kupferman
	Dole	Laird
	Dorn	Langen
	Dow	Latta
	Dowdy	Leggett
	Downing	Lipscomb
	Dulski	Love
	Duncan, Tenn.	McCarthy
	Dyal	McClory
	Edmondson	McCulloch
	Edwards, Ala.	McDade
	Edwards, Calif.	McEwen
	Edwards, La.	McFall
	Erlenborn	McGrath
	Evans, Colo.	McVicker
	Farnsley	MacGregor
	Farnum	Machen
	Fascell	Mackay
	Findley	Madden
	Fisher	Mahon
	Foley	Mailliard
	Ford, Gerald R.	Marsh
	Ford, William D.	Martin, Ala
	Fountain	Martin, Nebr.
	Frelinghuysen	Matsunaga
	Friedel	Matthews
	Fulton, Pa.	Meeds
	Fulton, Tenn.	Michel
	Fuqua	Miller
	Gallagher	Mills
	Garmatz	Minish
	Gathings	Mink
	Gettys	Mize
	Giaimo	Moeller
	Gibbons	Monagan
	Gonzalez	Moore
	Green, Oreg.	Moorhead
	Green, Pa.	Morgan
	Gregg	Morris
	Grider	Morse
	Griffiths	Morton
	Gross	Mosher
	Grover	Moss
	Gubser	Murphy, Ill.
	Gurney	Murphy, N.Y.
	Hagen, Calif.	Natcher
	Haley	Nedzi
	Hall	Nelsen
	Halpern	O'Hara, Ill.
	Hanna	O'Hara, Mich.
	Hansen, Idaho	O'Konski
	Hansen, Wash.	Olsen, Mont.
	Hardy	O'Neal, Ga.
	Harvey, Ind.	Ottinger
	Harvey, Mich.	Patman
	Hathaway	Patten
	Hawkins	Pelly
	Hays	Perkins
	Hébert	Philbin
	Hechler	Pickle
	Helstoski	Pike
	Henderson	Poage
	Hicks	Poff
	Holland	Pool
	Hosmer	Pucinski
	Hull	Quie
		Race
		Randall
		Redlin
		Rees
		Reid, Ill.
		Reid, N.Y.
		Reinecke
		Reuss
		Rhodes, Ariz.
		Rhodes, Pa.
		Rivers, Alaska
		Rivers, S.C.
		Robison
		Rodino
		Rogers, Colo.
		Rogers, Fla.
		Rogers, Tex.
		Ronan
		Roncalio
		Rosenthal
		Roush
		Rumsfeld
		Ryan
		Satterfield
		St Germain
		St. Onge
		Saylor
		Schisler
		Schmidhauser
		Schneebeli
		Schweiker
		Secrest
		Selden
		Senner
		Shriver
		Sickles
		Sikes
		Sisk
		Skubitz
		Slack
		Smith, Calif.
		Smith, Iowa
		Smith, N.Y.
		Smith, Va.
		Staggers
		Stalbaum
		Stanton
		Stratton
		Stubblefield
		Sullivan
		Sweeney
		Talcott
		Taylor
		Teague, Calif.
		Teague, Tex.
		Tenzer
		Thompson, N.J.
		Thompson, Tex.
		Thomson, Wis.
		Todd
		Tuck
		Tunney
		Tupper
		Tuten
		Udall
		Ullman
		Utt
		Van Deerlin
		Vanik
		Vigorito
		Vivian
		Waggonner
		Waldie
		Walker, N. Mex.
		Watkins
		Watts
		Weltner
		White, Idaho
		White, Tex.
		Whitener
		Whitten
		Widnall
		Wilson, Charles H.
		Wyatt
		Wydler
		Yates
		Young
		Younger
		Zablocki

NAYS—0

NOT VOTING—125

Adair	Bray	Conyers
Addabbo	Brooks	Cooley
Andrews, N. Dak.	Brown, Clarence J., Jr.	Corman
Annunzio	Cahill	Craley
Ashley	Callaway	Cramer
Ashmore	Celler	Culver
Berry	Clancy	Cunningham
Blatnik	Clausen, Don H.	Curtin
Bolling	Cohelan	Daddario
Bolton	Collier	Davis, Ga.
Bow		Delaney
		Dent
		Diggs
		Dingell
		Donohue
		Duncan, Oreg.
		Dwyer
		Ellsworth
		Everett
		Evins, Tenn.
		Fallon
		Farbstein
		Feighan
		Fino
		Flood
		Flynt
		Fogarty
		Fraser
		Gilbert
		Gilligan
		Goodell
		Grabowski
		Gray
		Hagan, Ga.
		Halleck
		Hamilton
		Hanley
		Hansen, Iowa
		Harsha
		Herlong
		Holifield
		Horton
		Howard
		Huot
		Jennings
		Jonas
		Jones, N.C.
		Kee
		Keith
		Keogh
		King, N.Y.
		Kluczynski
		Landrum
		Lennon
		Long, La.
		Long, Md.
		McDowell
		McMillan
		Macdonald
		Mackie
		Martin, Mass.
		Mathias
		May
		Minshall
		Morrison
		Multer
		Murray
		Nix
		O'Brien
		Olson, Minn.
		O'Neill, Mass.
		Passman
		Pepper
		Pirnie
		Powell
		Price
		Purcell
		Quillen
		Reifel
		Resnick
		Roberts
		Rooney, N.Y.
		Rooney, Pa.
		Rostenkowski
		Roudebush
		Roybal
		Scheuer
		Scott
		Shipley
		Springer
		Stafford
		Steed
		Stephens
		Thomas
		Toll
		Trimble
		Walker, Miss.
		Watson
		Whalley
		Williams
		Willis
		Wilson, Bob
		Wolff
		Wright

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hamilton with Mr. King of New York.
Mr. Scott with Mr. Callaway.
Mr. Cooley with Mr. Jonas.
Mr. Multer with Mr. Fino.
Mr. Evins with Mrs. May.
Mr. Howard with Mrs. Dwyer.
Mr. Culver with Mr. Reifel.
Mr. Grabowski with Mr. Bow.
Mr. Holifield with Mr. Bob Wilson.
Mr. Roberts with Mr. Whalley.
Mr. Long of Louisiana with Mr. Quillen.
Mr. Cohelan with Mr. Horton.
Mr. Keogh with Mr. Cahill.
Mrs. Thomas with Mr. Springer.
Mr. Wolff with Mr. Pirnie.
Mr. Pepper with Mr. Martin of Massachusetts.
Mr. Herlong with Mr. Harsha.
Mr. Duncan of Oregon with Mr. Minshall.
Mr. Jones of North Carolina with Mr. Cramer.
Mr. Steed with Mr. Brown of Ohio.
Mr. Blatnik with Mr. Collier.
Mr. Mackie with Mr. Mathias.
Mr. Addabbo with Mr. Keith.
Mr. Williams with Mr. Walker of Mississippi.
Mr. Davis of Georgia with Mr. Berry.
Mr. Trimble with Mr. Halleck.
Mr. Flood with Mr. Andrews of North Dakota.
Mr. Shipley with Mr. Adair.
Mr. Dingell with Mr. Stafford.
Mr. Wright with Mr. Roudebush.
Mr. Everett with Mr. Clancy.
Mr. Willis with Mr. Goodell.
Mr. Fraser with Mr. Ellsworth.
Mr. Morrison with Mr. Curtin.
Mr. Resnick with Mr. Don H. Clausen.
Mr. Brooks with Mr. Cunningham.
Mr. Stephens with Mr. Bray.
Mr. Annunzio with Mr. Watson.
Mr. Celler with Mr. Ashmore.
Mr. Ashley with Mr. Roybal.
Mr. Diggs with Mr. Scheuer.
Mr. Jennings with Mr. Purcell.
Mr. Fallon with Mr. McMillan.
Mr. Daddario with Mr. McDowell.
Mr. Conyers with Mr. O'Brien.
Mr. Hagan of Georgia with Mr. Murray.
Mr. Rooney of New York with Mr. Feighan.
Mr. Rostenkowski with Mr. Powell.
Mr. Gilligan with Mr. Kee.
Mr. Huot with Mr. Nix.
Mr. Donohue with Mr. Long of Maryland.
Mr. Dent with Mr. Lennon.
Mr. Flynt with Mr. Passman.
Mr. Corman with Mr. Olson of Minnesota.

Mr. Craley with Mr. O'Neill of Massachusetts.
Mr. Delaney with Mr. Macdonald.
Mr. Farbstein with Mr. Toll.
Mr. Fogarty with Mr. Rooney of Pennsylvania.
Mr. Gilbert with Mr. Price.
Mr. Gray with Mr. Landrum.
Mr. Hanley with Mr. Kluczynski.
Mr. Hansen of Iowa with Mrs. Bolton.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GUADALUPE MOUNTAINS NATIONAL PARK, TEX.

Mr. RIVERS of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 698) to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes, as amended.

The Clerk read as follows:

H.R. 698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve in public ownership an area in the State of Texas possessing outstanding geological values together with scenic and other natural values of great significance, the Secretary of the Interior shall establish the Guadalupe Mountains National Park, consisting of the land and interests in land within the area shown on the drawing entitled "Proposed Guadalupe Mountains National Park, Texas", numbered SA–GM–7100C and dated February 1965, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Notwithstanding the foregoing, however, the Secretary shall omit from the park sections 7 and 17, P.S.L. Block 121, in Hudspeth County, and revise the boundaries of the park accordingly if the owner of said sections agrees, on behalf of himself, his heirs and assigns that there will not be erected thereon any structure which, in the judgment of the Secretary, adversely affects the public use and enjoyment of the park.

SEC. 2. (a) Within the boundaries of the Guadalupe Mountains National Park, the Secretary of the Interior may acquire land or interests therein by donation, purchase with donated or appropriated funds, exchange, or in such other manner as he deems to be in the public interest. Any property, or interest therein, owned by the State of Texas, or any political subdivision thereof, may be acquired only with the concurrence of such owner.

(b) In order to facilitate the acquisition of privately owned lands in the park by exchange and avoid the payment of severance costs, the Secretary of the Interior may acquire approximately 4,667 acres of land or interests in land which lie adjacent to or in the vicinity of the park. Land so acquired outside the park boundary may be exchanged by the Secretary on an equal-value basis, subject to such terms, conditions, and reservations as he may deem necessary, for privately owned land located within the park. The Secretary may accept cash from or pay cash to the grantor in such exchange in order to equalize the values of the properties exchanged.

SEC. 3. (a) When title to all privately owned land within the boundary of the park, subject to such outstanding interests, rights, and easements as the Secretary determines are not objectionable, with the exception of approximately 4,574 acres which are planned to be acquired by exchange, is vested in the United States and after the State of Texas has donated or agreed to donate to the United States whatever rights and interests in minerals underlying the lands within the boundaries of the park it may have and other owners of such rights and interests have donated or sold or agreed to donate or sell the same to the United States, notice thereof and notice of the establishment of the Guadalupe Mountains National Park shall be published in the Federal Register. Thereafter, the Secretary may continue to acquire the remaining land and interests in land within the boundaries of the park. The Secretary is authorized, pending establishment of the park, to negotiate and acquire options for the purchase of lands and interests in land within the boundaries of the park. He is further authorized to execute contracts for the purchase of such lands and interests, but the liability of the United States under any such contract shall be contingent on the availability of appropriated or donated funds to fulfill the same.

(b) In the event said lands or any part thereof are abandoned and/or cease to be used for National Park purposes by the United States on or before the expiration of twenty years from the date of acquisition, the person or persons owning the respective rights and interests in minerals underlying the lands within the boundaries of the park from whom title to such rights and interests were acquired by the United States shall be given written notice, mailed to such person's last known address and in such other manner (which may include publication) as the Secretary by regulation may prescribe, of such abandonment and/or cessation of use of said lands or part thereof as a National Park. Such persons shall have the preferential right to purchase the respective rights and interests in minerals and the minerals underlying the identical land which was originally acquired from such person by the United States at private sale at any time during the period of 180 days following the mailing date of such notice: *Provided,* That such period shall be extended in any case when such preferential right to purchase has been exercised by such person and such extension is necessary or appropriate to consummate the sale and conveyance to such person of such rights and interests in such minerals under this subsection. The price to be paid by such person having such preferential right to purchase for the rights and interests in minerals in the identical land which was so acquired from such person by the United States shall be a price not greater than that for which same was acquired by the United States from such person plus interest at the rate of five per cent per annum. The preferential right to purchase such property shall inure to the benefit of the successors, heirs, devisees or assigns of such persons having or holding such preferential right to purchase.

(c) Such rights and interests in minerals, including all minerals of whatever nature, in and underlying the lands within the boundaries of the park and which are acquired by the United States under the provisions of this Act are hereby withdrawn from leasing and are hereby excluded from the application of the present or future provisions of the Mineral Leasing Act for Acquired Lands (Aug. 7, 1947, c. 513, 61 Stat. 913) or other act in lieu thereof having the same purpose, and the same are hereby also excluded from the provisions of all present and future laws affecting the sale of surplus property or of said mineral interests acquired pursuant to this Act by the United States or any department or agency thereof, except that, if such person having such preferential right to purchase fails or refuses to exercise such preferential right to purchase as provided in subparagraph (b) next above, then this subsection (c) shall not be applicable to the rights and interests in such minerals in the identical lands of such person so failing or refusing to exercise such preferential right to purchase from and after the 180 day period referred to in subparagraph (b) next above.

SEC. 4. The Guadalupe Mountains National Park shall be administered by the Secretary of the Interior in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4), as amended and supplemented.

SEC. 5. Any funds available for the purpose of administering the five thousand six hundred and thirty-two acres of lands previously donated to the United States in Culberson County, Texas, shall upon establishment of the Guadalupe Mountains National Park pursuant to this Act be available to the Secretary for purposes of such park.

SEC. 6. There are hereby authorized to be appropriated such sums, but not more than $12,162,000 in all, as may be necessary for the acquisition of lands and interests in land pursuant to the provisions of this Act, and for the development of, the Guadelupe Mountains National Park.

The SPEAKER pro tempore (Mr. ALBERT). Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Alaska [Mr. RIVERS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. SAYLOR] will be recognized for 20 minutes. The Chair recognizes the gentleman from Alaska.

Mr. RIVERS of Alaska. Mr. Speaker, I yield such time as he may require to the gentleman from Colorado [Mr. ASPINALL].

Mr. ASPINALL. Mr. Speaker, the bill which the Committee on Interior and Insular Affairs is recommending to you at this time would authorize the establishment of Guadalupe Mountains National Park in the State of Texas.

As many of you will recall, during the 88th Congress, we authorized the Canyonlands National Park. It was the first completely new national park created by Congress in almost 10 years. If H.R. 698 is enacted, it will be the second wholly new national park since 1956.

The rugged, scenic Guadalupe Mountain area which is embraced in the proposed park would make a significant addition to the national park system.

Scientifically, this area features the world's best known fossil reefs. In effect, what we have is an area which some 200 million years ago was far below the surface of a large inland ocean. Students and scientists can benefit from this unique outdoor laboratory and understand better the processes which are taking place beneath the surface of oceans in other parts of the world today.

In addition, this legislation offers us an opportunity to preserve and protect an area of historic and archeologic significance. The Spanish conquistadores noted references to the area and archeological evidence suggests that man inhabited the area thousands of years ago. Early outdoor kitchens and pictographs are scattered throughout the vicinity in caves and sheltered overhangs.