have gone by since that historic event in human affairs which began a new era for all mankind, but most especially for us who live in the Western Hemisphere.

In the course of history, mankind has come to recognize Columbus as a great navigator, explorer, and dreamer, but also as a dedicated and religious man who by his exploits inspired countless generations to great deeds. I believe that much of our heritage of freedom and justice is due in large measure to the courage, the determination, and the ideals of Columbus.

It is to be regretted that to this day we have not yet given to Christopher Columbus the full recognition to which he is entitled. Both in the last Congress and also in the present Congress I have introduced bills to designate October 12 of each year as a legal holiday and that it be known as Columbus Day in recognition of the achievements of the great navigator. I also suggested that this day be observed as a day of rededication to the ideals of peace, justice and democracy which have helped make America the great Nation that it is today.

I believe the time has come to make Columbus Day more meaningful, and for this reason I commend our fellow Americans of Italian origin for their efforts each year in observing this day in accordance with the ideals and dreams envisioned by Columbus. We join with them on this day in paying tribute to Columbus. We recall with pride and appreciation the magnificent contribution and the invaluable role of Italian-Americans in the growth of development of America. We salute them for their loyalty and their patriotism.

SENATE

WEDNESDAY, OCTOBER 13, 1965

The Senate met at 11 o'clock a.m., and was called to order by the Vice President.

The Reverend William Kenneth Amiott, of Cardinal Muench Seminary, Fargo, N. Dak., offered the following prayer:

Almighty Father, Your Son once said to us, "Peace be to you, peace I leave with you; my peace I give unto you." O God, help us, for we have lost that precious gift.

Enlighten our eyes, for in our search we might walk past it, since without You we are blind to the light of peace. Encourage our hearts, for without Your strength we shall falter along the way; so few men seem to have joined the search.

Inflame our imaginations with the beauty and worth of peace, for we have so long been without it that we cannot recall it. Enrapture our minds with the glories to come to this world from peace, for we are much burdened with the ugliness of waging war. Enable us to lead our Nation to unbroken peace; let us lead men who follow freely into the path of Your bounty, for so few men are free. Encompass us all with Your love in these last days of our arduous task, for without You the builder builds in vain.

Embrace us in the fervor of peace, Almighty Father; give us peace in our time, for Thy name's sake. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, October 12, 1965, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 305)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Finance:

To the Congress of the United States:

This is the ninth annual report on the trade agreements program, as required by section 402(a) of the Trade Expansion Act of 1962.

In 1964, United States and free-world trade continued to set fresh records.

U.S. exports reached a new high of $25.6 billion, $6.9 billion more than our imports.

U.S. farm exports rose to $6.4 billion, an alltime peak.

Free world exports reached a record $152 billion.

The major trading nations agreed to take further steps under the General Agreement on Tariffs and Trade to assist exports from developing countries.

The policy of two-way trade expansion and liberalization, initiated with the Trade Agreements Act of 1934 and continued by every administration since that time, has brought great benefits to this country. In general, U.S. goods have enjoyed progressively easier access to foreign markets. Low cost, high-quality U.S. exports, sold and used in every corner of the world, have provided immediate evidence of the vitality of our free enterprise system. Our processors have gained ready access to essential raw materials, and have profited from the stimulus of keener competition. Consumers have enjoyed the wide range of choice which the world market provides.

But we have only begun. We must build on past success to achieve greater well-being for America, and for all the world's peoples. In particular, we must make every effort to assure the success of the current Geneva negotiations, known as the Kennedy round.

In this International Cooperation Year of 1965, all nations should pledge themselves to work together for the steady expansion of commerce. Continuing its steady course begun in 1934, the United States will do its part in achieving that goal.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *October 13, 1965.*

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar, beginning with Calendar No. 798.

The VICE PRESIDENT. Without objection, it is so ordered.

CLARIFYING AND PROTECTING THE RIGHT OF THE PUBLIC TO INFORMATION

The Senate proceeded to consider 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 which had been reported from the Committee on the Judiciary with amendments on page 3, line 8, after the letter "(C)", to insert "administrative"; on page 4, line 4, after the word "Records.", to strike out "Every" and insert "Except with respect to the records made available pursuant to subsections (a) and (b), every"; in line 6, after the word "shall", to insert "upon request for identifiable records made"; in line 8, after the word "place", to insert "fees to the extent authorized by statute"; in line 9, after the word "make", to strike out "all its" and insert "such"; in line 14, after the word "records", to strike out "and information"; in line 15, after the word "records", to strike out "or information"; on page 5, line 12, after the word "from", to strike out "the public" and insert "any person"; in line 14, after the word "letters", to strike out "dealing solely with matters of law or policy" and insert "which would not be available by law to a private party in litigation with the agency"; in line 20, after the word "party", to strike out "and"; and, in line 24, after the word "institutions", to insert a semicolon and "and (9) geological and geophysical information and data (including maps) concerning wells"; so as to make the bill read:

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 promply 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 amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 813), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

In introducing S. 1666, the predecessor of the present bill, Senator LONG quoted the words of Madison, who was chairman of the committee which drafted the first amendment to the Constitution:

"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 prolog to a farce or a tragedy or perhaps both."

Today the very vastness of our Government and its myriad of agencies makes it difficult for the electorate to obtain that "popular information" of which Madison spoke. But it is only when one further considers the hundreds of departments, branches, and agencies which are not directly responsible to the people, that one begins to understand the great importance of having an information policy of full disclosure.

Although the theory of an informed electorate is vital to the proper operation of a democracy, there is nowhere in our present law a statute which affirmatively provides for that information. Many witnesses have testified that the present public information section of the Administrative Procedure Act has been used more as an excuse for withholding than as a disclosure statute.

Section 3 of the Administrative Procedure Act, that section which this bill would amend, is full of loopholes which allow agencies to deny legitimate information to the public. Innumerable times it appears that information is withheld only to cover up embarrassing mistakes or irregularities and the withholding justified by such phrases in section 3 of the Administrative Procedure Act as—"requiring secrecy in the public interest," or "required for good cause to be held confidential."

It is the purpose of the present bill to eliminate such phrases, to establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language and to provide a court procedure by which citizens and the press may obtain information wrongfully withheld. It is important and necessary that the present void be filled. It is essential that agency personnel, and the courts as well, be given definitive guidelines in setting information policies. Standards such as "for good cause" are certainly not sufficient.

At the same time that a broad philosophy of "freedom of information" is enacted into law, it is necessary to protect certain equally important rights of privacy with respect to certain information in Government files, such as medical and personnel records. It is also necessary for the very operation of our Government to allow it to keep confidential certain material, such as the investigatory files of the Federal Bureau of Investigation.

It is not an easy task to balance the opposing interests, but it is not an impossible one either. It is not necessary to conclude that to protect one of the interests, the other must, of necessity, either be abrogated or substantially subordinated. Success lies in providing a workable formula which encompasses, balances, and protects all interests, yet places emphasis on the fullest responsible disclosure.

HISTORY OF LEGISLATION

After it became apparent that section 3 of the Administrative Procedure Act was being used as an excuse for secrecy, proposals for change began.

The first of these proposals, S. 2504, 84th Congress, introduced by Senator Wiley, and S. 2541, 84th Congress, by Senator McCarthy, arose out of recommendations by the Hoover Commission Task Force. These were quickly followed in the 85th Congress by the Hennings bill, S. 2148, and by S. 4094, introduced by Senators ERVIN and Butler, which was incorporated as a part of the proposed Code of Federal Administrative Procedure.

S. 4094 was reintroduced by Senator Hennings in the 86th Congress as S. 186. This was followed in the second session by a slightly revised version of the same bill, numbered S. 2780. Senators ERVIN and Butler reintroduced S. 4094 which was designated S. 1070, 86th Congress.

More recently, Senator Carroll introduced S. 1567, cosponsored by Senators HART, LONG, and PROXMIRE. Also introduced in the 87th Congress were the Ervin bill, S. 1887, its companion bill in the House, H.R. 9926, S. 1907 by Senator PROXMIRE, and S. 3410 introduced by Senators DIRKSEN and Carroll.

Although hearings were held on the Hennings bills, and considerable interest was aroused by all of the bills, no legislation resulted.

In the last Congress, the Senate passed S. 1666, upon which this bill is based, on July 31, 1964, but sufficient time did not remain in that Congress for its full consideration by the House. The present bill is substantially S. 1666, as passed by the Senate, with amendments reflecting suggestions made to the committee in the course of the hearings.

INADEQUACY OF PRESENT LAW

The present section 3 of the Administrative Procedure Act, which would be replaced by S. 1160, is so brief that it can be profitably placed at this point in the report:

"PUBLIC INFORMATION

"Section 3: 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."

The serious deficiencies in this present statute are obvious. They fall into four categories:

1. There is excepted from the operation of the whole section "any function of the United States requiring secrecy in the public interest * * *." There is no attempt in the bill or its legislative history to delimit "in the public interest," and there is no authority granted for any review of the use of this vague phrase by Federal officials who wish to withhold information.

2. Although subsection (b) requires the agency to make available to public inspection "all final opinions or orders in the adjudication of cases," it vitiates this command by adding the following limitation: "* * * except those required for good cause to be held confidential * * *."

3. As to public records generally, subsection (c) requires their availability "to persons properly and directly concerned except information held confidential for good cause found." This is a double-barreled loophole because not only is there the vague phrase "for good cause found," there is also a further excuse for withholding if persons are not "properly and directly concerned."

4. There is no remedy in case of wrongful withholding of information from citizens by Government officials.

PRESENT SECTION 3 OF ADMINISTRATIVE PROCEDURE ACT IS WITHHOLDING STATUTE, NOT DISCLOSURE STATUTE

It is the conclusion of the committee that the present section 3 of the Administrative Procedure Act is of little or no value to the public in gaining access to records of the Federal Government. Indeed, it has had precisely the opposite effect: it is cited as statutory authority for the withholding of virtually any piece of information that an official or an agency does not wish to disclose.

Under the present section 3, any Government official can under color of law withhold almost anything from any citizen under the vague standards—or, more precisely, lack of standards—in section 3. It would require almost no effort for any official to think up a reason why a piece of information should be withheld (1) because it was in the "public interest," or (2) "for good cause found," or (3) that the person making the request was not "properly and directly concerned." And, even if his reason had not a scintilla of validity, there is absolutely nothing that a citizen seeking information can do because there is no remedy available.

WHAT S. 1160 WOULD DO

S. 1160 would emphasize that section 3 of the Administrative Procedure Act is not a withholding statute but a disclosure statute by 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.

3. The revised section 3 gives to any aggrieved citizen a remedy in court.

DETAILED DESCRIPTION OF BILL

Description of subsection (a)

Subsection (a) deals entirely with publication of material in the Federal Register. This subsection has fewer changes from the existing law than any other; primarily because there have been few complaints about omission from the Federal Register of necessary official material. In fact, what complaints there have been have been more on the side of too much publication rather than too little.

The principal change in subsection (a) has been to deal with the exceptions to its provisions in a single subsection, subsection (e).

There are a number of minor changes which attempt to make it more clear that the purpose of inclusion of material in the Federal Register is to guide the public in determining where and by whom decisions are made, as well as where they may secure information and make submittals and requests.

There is also a provision, suggested by a number of agencies, for incorporation of other publications by reference in the Federal Register. This may be helpful in reducing the bulky present size of the Register.

The new sanction imposed for failure to publish the matters enumerated in section 3(a) was added to expressly provide that a person shall not be adversely affected by matters required to be published and not so published. This gives added incentive to the agencies to publish the required material.

The following technical changes were also made with regard to subsection 3(a):

The phrase "* * * but not rules addressed to and served upon named persons in accordance with law * * *" was stricken because section 3(a) as amended only requires the publication of rules of general applicability.

"Rules of procedure" was added to remove an uncertainty. "Description of forms available" was added to eliminate the need of publishing lengthy forms.

The new clause (E) is an obvious change, added for the sake of completeness and clarity.

Description of subsection (b)

Subsection (b) of S. 1160 (as subsec. (b) of sec. 3 of the Administrative Procedure Act) deals with agency opinions, orders, and rules. This Administrative Procedure Act subsection is replaced by a detailed subsection, specifying what orders, opinions, and rules must be made available. The exceptions have again been moved to a single subsection, subsection (e), dealing with exceptions.

Apart from the exemptions, agencies must make available for public inspection and copying all final opinions (including concurring and dissenting opinions); all orders made in the adjudication of cases; and those statements of policy and interpretations which have been adopted by the agency and are not required to be published in the Federal Register; and administrative staff manuals and instructions to staff that affect any member of the public.

There is a provision for the deletion of certain details in opinions, statements of policy, interpretations, staff manuals and instructions to prevent "a clearly unwarranted invasion of personal privacy." The authority to delete identifying details after written justification is necessary in order to be able to balance the public's right to know with the private citizen's right to be secure in his personal affairs which have no bearing or effect on the general public. For example, it may be pertinent to know that unseasonably harsh weather has caused an increase in public relief costs; but it is not necessary that the identity of any person so affected be made public.

Written justification for deletion of identifying details is to be placed as preamble to "* * * the opinion, statement of policy, interpretation or staff manual or instruction * * *" that is made available.

Requiring the agencies to keep a current index of their orders, opinions, etc., is necessary to afford the private citizen the essential information to enable him to deal effectively and knowledgeably with the Federal agencies. This change will prevent a citizen from losing a controversy with an agency because of some obscure and hidden order or opinion which the agency knows about but which has been unavailable to the citizen simply because he had no way in which to discover it. However, considerations of time and expense cause this indexing requirement to be made prospective in application only.

Many agencies already have indexing programs, e.g., the Interstate Commerce Commission. Such indexes satisfy the requirements of this bill insofar as they achieve the purpose of the indexing requirement. No other special or new indexing will be necessary for such agencies.

Subsection (b) contains its own sanction that orders, opinions, etc., which are not properly indexed and made available to the public may not be relied upon or cited as precedent by an agency.

There are also a number of technical changes in section 3(b):

The phrase "* * * and copying * * *" was added because it is frequently of little use to be able to inspect orders or the like unless one is able to copy them for future reference. Hence the right to copy these matters is supplemental to the right to inspect and makes the latter right meaningful.

The addition of "* * * concurring and dissenting opinions * * *" is added to insure that, if one or more agency members dissent or concur, the public and the parties should have access to these views and ideas.

The enumeration of orders, etc., defines what materials are subject to section 3(b)'s requirements. The "unless" clause was added to provide the agencies with an alternative means of making these materials available through publication.

Description of subsection (c)

Subsection (c) deals with "agency records" and would have almost the reverse result of present subsection (c) which deals with "public records." Whereas the present subsection 3(c) of the Administrative Procedure Act has been construed to authorize widespread withholding of agency records, subsection 3(c) of S. 1160 requires their disclosure.

The records must be identifiable by the person requesting them, i.e., a reasonable description enabling the Government employee to locate the requested records. This requirement of identification is not to be used as a method of withholding records.

Subsection (c) contains a specific court remedy for any alleged wrongful withholding of agency records by agency personnel. The aggrieved person can bring an action in the district court where he resides, has his place of business, or in which the agency records are situated. The court may require the agency to pay costs and reasonable attorney's fees of the complainant as in other cases.

That the proceeding must be de novo is essential in order that the ultimate decision as to the propriety of the agency's action is made by the court and prevent it from becoming meaningless judicial sanctioning of agency discretion.

Placing the burden of proof upon the agency puts the task of justifying the withholding on the only party able to explain it. The private party can hardly be asked to prove that an agency has improperly withheld public information because he will not know the reasons for the agency action.

The court is authorized to give actions under this subsection precedence on the docket over other causes. Complaints of wrongful withholding shall be heard "at the earliest practicable date and expedited in every way."

Description of subsection (d)

This subsection provides that a record be kept of all final votes by agency members in every agency proceeding and that this record of votes be available to the public.

Agency practice in this area varies. This change makes the publication of final votes of agency members a uniform practice and provides the public with a very important part of the agency's decisional process.

Description of subsection (e)

Subsection (e) deals with the categories of matters which are exempt from disclosure under the bill. Exemption No. 1 is for matters specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy. The change of standard from "in the public interest" is made both to delimit more narrowly the exception and to give it a more precise definition. The phrase "public interest" in section 3(a) of the Administrative Procedure Act has been subject to conflicting interpretations, often colored by personal prejudices and predilections. It admits of no clear delineations, and it has served in many cases to defeat the very purpose for which it was intended—the public's right to know the operations of its Government. Rather than protecting the public's interest, it has caused widespread public dissatisfaction and confusion. Retention of such an exception in section 3(a) is, therefore, inconsistent with the general objective of enabling the public readily to gain access to the information necessary to deal effectively and upon equal footing with Federal agencies.

Exemption No. 2 relates only to the internal personnel rules and practices of an agency. Examples of these may be rules as to personnel's use of parking facilities or regulation of lunch hours, statements of policy as to sick leave, and the like.

Exemption No. 3 deals with matters specifically exempt from disclosure by another statute.

Exemption No. 4 is for "trade secrets and commercial or financial information obtained from any person and privileged or confidential." This exception is necessary to protect the confidentiality of information which is obtained by the Government through questionnaires or other inquiries, but which would customarily not be released to the public by the person from whom it was obtained. This would include business sales statistics, inventories, customer lists, and manufacturing processes. It would also include information customarily subject to the doctor-patient, lawyer-client, lender-borrower, and other such privileges. Specifically it would include any commercial, technical, and financial data, submitted by an applicant or a borrower to a lending agency in connection with any loan application or loan.

Exemption No. 5 relates to "inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency." It was pointed out in the comments of many of the agencies that it would be impossible to have any frank discussion of legal or policy matters in writing if all such writings were to be subjected to public scrutiny. It was argued, and with merit, that efficiency of Government would be greatly hampered if, with respect to legal and policy matters, all Government agencies were prematurely forced to "operate in a fishbowl." The committee is convinced of the merits of this general proposition, but it has attempted to delimit the exception as narrowly as consistent with efficient Government operation.

Exemption No. 6 contains an exemption for "personnel and medical files, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Such agencies as the Veterans' Administration, Department of Health, Education, and Welfare, Selective Service, etc., have great quantities of files, the confidentiality of which has been maintained by agency rule but without statutory authority. There is a consensus that these files should not be opened to the public, and the committee decided upon a general exemption rather than a number of specific statutory authorizations for various agencies. It is believed that the scope of the exemption is held within bounds by the use of the limitation of "a clearly unwarranted invasion of personal privacy."

The phrase "clearly unwarranted invasion of personal privacy" enunciates a policy that will involve a balancing of interests between the protection of an individual's private affairs from unnecessary public scrutiny, and the preservation of the public's right to governmental information. The application of this policy should lend itself particularly to those Government agencies where persons are required to submit vast amounts of personal data usually for limited purposes. For example, health, welfare, and selective service records are highly personal to the person involved, yet facts concerning the award of a pension or benefit should be disclosed to the public.

Exemption No. 7 deals with "investigatory files compiled for law enforcement purposes." These are the files prepared by Government agencies to prosecute law violators. Their disclosure of such files, except to the extent they are available by law to a private party, could harm the Government's case in court.

Exemption No. 8 is directed specifically to insuring the security of our financial institutions by making available only to the Government agencies responsible for the regulation or supervision of such institutions the examination, operating, or condition reports prepared by, on behalf of, or for the use of such agencies.

Description of subsection (f)

The purpose of this subsection is to make it clear beyond doubt that all materials of the Government are to be made available to the public by publication or otherwise unless explicitly allowed to be kept secret by one of the exemptions in subsection (e). Further, it is made clear that, because this section only refers to the public's right to know, it cannot, therefore, be backhandedly construed as authorizing the withholding of information from the Congress, the collective representative of the public.

Description of subsection (g)

This subsection provides a definition of the term "private party" which is not presently defined in the act being amended by this bill.

Description of subsection (h)

The 1-year period before this act goes into effect is to allow ample time for the agencies to conform their practices to the requirements of this act.

CONCLUSION

The committee feels that this bill, as amended, would establish a much-needed policy of disclosure, while balancing the necessary interest of confidentiality.

A government by secrecy benefits no one. It injures the people it seeks to serve; it injures its own integrity and operation.

It breeds mistrust, dampens the fervor of its citizens, and mocks their loyalty.

For these reasons, the committee reports the bill with the recommendation that it be adopted, as amended.

COPYRIGHT OFFICE FEES

The bill (H.R. 2853) to amend title 17, United States Code, with relation to the fees to be charged was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 814), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 2853 is to increase the fees payable to the Copyright Office, so as to bring the cash receipts of the Office more nearly in line with its expenditures.

STATEMENT

The present statutory fees of the Copyright Office were established in 1948. As a result of the 1948 amendment of copyright fees, the income of the Office then exceeded its expenditures. Since fiscal year 1950 the ratio of fees to expenditures has dropped from 100 percent to 63 percent for fiscal year 1965. This decline has resulted in expressions of concern from the Appropriations Committees of both the Senate and the