A Regrettable Veto

President Ford's assurances of openness in government now account for these 335 to serve. The new legislation would have reduced the number of days within which an amendment could be submitted to the press, and could have led to more disclosure. The amendments are said to have "an important role in bringing about the passage of an important bill in which the public is concerned," but Mr. Ford's brief argued that they would "in a way help the public to understand the amendment." The amendment itself was said to have "an important role in bringing about the passage of an important bill in which the public is concerned," but Mr. Ford's brief argued that they would "in a way help the public to understand the amendment."
Federal Files: Freedom of Information...

JUST BEFORE the election recess, President Ford used his power of veto and sent back to the Congress a piece of very important legislation, the 1974 amendments to the Freedom of Information Act. Those amendments were important because they strengthened a law that was fine in principle and purpose but poor in practical terms. The Freedom of Information Act had been enacted in 1966 in the hope of making it possible for the press and the public to obtain documents from within government to which they are entitled. Because of cumbersome provisions such as these, however, obtaining such information proved very difficult.

This year, after long hearings, much haggling between House and Senate and two resounding votes, a series of amendments was ready for presidential signature. They shortened the amount of time a citizen would have to wait before a document could be released, they forced the public into the act by a request, and they placed limits on bureaucrats who tried to keep information secret that should be released in the public interest. In light of President Ford's previous statements in support of openness in government, it was assumed that the President would welcome this legislation and sign it into law. Instead, sadly, Mr. Ford yielded to the arguments of the bureaucracy and vetoed the legislation.

Since then, a number of journalists and citizens groups have criticized action by the President and urged Congress to override the veto. Today in the House and tomorrow in the Senate, those votes are scheduled to take place. We would urge a strong vote in support of the legislation, particularly in light of the recent disclosures made possible by the Freedom of Information Act.

Recently, Ralph Nader-suggested group on tax reform turned up the fact the Nixon White House instilled Internal Revenue Service investigations of social action groups on the left and in the black community. The majority of the exercise is illustrated by the fact that the Urban League was among the targets, lumped in with the "radical" along with several social organizations that hardly merit either the label or the attention they were given by IRS. As we have had occasion to say in the past, the tax laws were not intended to be used for political harassment. The interesting point about these latest disclosures is that they were made possible by the utilization of the Freedom of Information Act.

In the same vein, the Justice Department released a report earlier this week on the operations of the counterintelligence operations of the FBI. Much of this information is about the use of dirty tricks against the far left and the far right. This report has been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saks felt compelled, on the basis of what the Justice Department had been forced to release, to order a study of what the FBI had done. Mr. Saks faulted aspects of the program's abhorrent, did FBI director Clarence M. Kelley actually defended the practices of his predecessor. J. Edgar Hoover. This is a good example of how important it is that there be a strong Freedom of Information Act.

The Freedom of Information Act is not a law to make the task of journalists easier or the power of news organizations greater. It is, in other words, not special interest legislation in the sense that the term is ordinarily used. It is special interest legislation in the sense that is it is intended to benefit very special interests: the American people in being better informed about the processes and practices of their government. This is a point President Ford's advisors missed badly at the time of the veto. One of them is alleged to have said that if the President vetoed the bill, "who gives a damn?" (The Washington Post and the New York Times). The truth of the matter is that this legislation goes to the heart of what a free society is about. When agencies of government such as the FBI and IRS can engage in the kind of activity just revealed, it is serious business. That's why we should all give a damn—especially those who are to cast their votes today and tomorrow.

...And the Right to Privacy

MORE THAN ONE basic question of federal information policy will be before Congress this week as the Senate and House take up S. 2415 and H.R. 10673. There are the "sneaky privacy bills" which would set rules to govern the multitude of federal files on individuals and give citizens far more, control over what information about them is collected by the government and how that personal data is used.

Both the White House and the bill, both measures would inject a new sensitivity to individual rights into all of the record-keeping practices of the entire-federal establishment. As with any legislation of such enormous scope there are substantial disagreements on some significant points. These disputes should not, however, be allowed to obscure the important and encouraging fact that, after years of work, an impressive array of legislators, administrators and citizen experts have reached general agreement on several basic principles to govern federal data banking.

These data information practices incorporated in both
LETTERS TO THE EDITOR

Congress and the Freedom of Information Act

This week Congress will vote to sustain or to override President Ford's veto of the Freedom of Information Act amendments, and in so doing will put itself on record either as endorsing openness in government or as sanctioning bureaucratic cover-up.

The Freedom of Information Act, amendments, which passed both Houses of Congress with only two dissenting votes, provide a fair and workable mechanism for releasing government information to the public. The amendments were deemed necessary to clarify congressional intent that government withholding be the exception, not the rule, and to plug up some of the act's procedural loopholes.

In his veto message of October 17, President Ford raised three objections to the amendments. When a government agency claims information is exempt and the claim is challenged, courts are given authority to examine the disputed documents. In such a proceeding the government has the burden of proving that the information falls under a legitimate exemption. President Ford objects to placing the burden of proof on the government, proposing instead that the court would be required to uphold a government classification as long as there is a "reasonable basis" to support it.

The effect of the President's proposed alteration would be to uphold all government classification except that most blatantly frivolous. The executive branch would continue to have a virtual carte blanche to withhold information from the public under the guise of "national security," and the public would remain in the dark.

The President's second objection concerns the provision exempting investigatory records compiled for law enforcement purposes. While the 1966 Freedom of Information Act allows a blanket exemption for any file falling into this category, the new amendments require that the government specify some harm in order to claim the exemption. The rationale behind the harm requirement lies in many volumes of hearings where public witnesses detailed the types of requests denied under this exemption. Included were such routine "law enforcement" activities as most inspection reports, reports concerning safety in factories under the Occupational Health and Safety Act, correspondence between the National Highway Traffic Safety Administration and automobile manufacturers concerning automobile safety defects, reports on safety and medical care in nursing homes receiving Medicare funds, and many others.

President Ford's final objection to the legislation concerns the time limits for government response to requests under the act. Although the vetoed bill contains a provision for extensions, which allow up to two calendar months for agency replies, the President labeled these time limits "unrealistic." The lack of time limits in the present Freedom of Information Act has led government agencies to withhold information through the process of repeated delays, often a year or more. Since the act is routinely used by newspaper reporters and public interest groups concerned with timely issues, delay can easily amount to effective denial.

The public needs a fair Freedom of Information Act. Congress has done a commendable job in shaping and passing such an act. It remains to be seen whether Congress will ensure its enactment by voting to override this veto.

Elizabeth Langer, Legislative Director, Consumer Federation of America, Washington.
White House Acts to Tighten Security

By Jack Anderson

Less than three months after President Ford promised he would run an open White House, he vetoed a Freedom of Information Bill, which would have given the public more access to government documents.

"The veto was accompanied by a move inside the White House to tighten security clearances. An memo, intended for the eyes only of staff chief Donald Rumsfeld, called for establishing procedures "to ensure that only cleared personnel deals with national security materials."

The memo proposed "a system," which would "continually verify" the tight security. It was necessary, stressed the memo, "to be certain that no one who has access to national security matters is not properly cleared."

Both the veto and the security crackdown are intended to protect diplomatic and military secrets, a White House spokesman explained.

"Of course, we don't want to jeopardize the nation's security. But in the past, our leaders have used security regulations to censor the news and protect themselves. They have swept their blunders and embarrassments, their inefficiency and corruption under the security carpet."

There are surprisingly few documents that must be kept secret in the interest of national security. The number doesn't even begin to approach the 20 million documents and papers that the government hides from the people.

President Ford, who started his presidency with such openness, has been listening lately to Henry A. Kissinger. The Secretary of State gets highly excitable over news leaks, which he fears could hamper his personal diplomacy.

His hawls about leaks helped to stimulate the wiretaps and other excesses of the Nixon administration. Now he is again in an uproar over leaks. He is particularly upset over our stories, quoting from secret documents on the Cyprus crisis and African policy.

On Oct. 7, he slashed cable distribution to the various bureaus. The European Affairs Bureau, for example, was cut from 30 to six copies of incoming cables. This was accompanied by a strict warning not to discontinue the limitation by reproducing secret cables.

"Top aides have also been making the rounds of underlings to discuss the leaks and how much Kissinger detests them."

"It's the old Nixon paranoia," one State Department official told us. "The secretary believes we're all out to get him. He runs foreign affairs like a mid 19th century German diplomat."

Footnote: It should be added, of course, that Kissinger's diplomatic style continues to produce amazing results.