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 descent for their efforts each year in observing this day in accordance with the ideals and dreams envisioned by Columbus. We join with them 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.

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

The Secretary, William Kenneth Amlott, 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. Encourage 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 from the President of the United States were communicated to the Senate by Mr. Gellier, 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 403(a) of the Trade Expansion Act of 1961.

In 1964, United States and free-world trade continued to set fresh records. U.S. exports reached a new high of $26.6 billion, $8.9 billion more than our imports. U.S. farm exports rose to $6.4 billion, an all-time peak. Free world exports reached a record $132 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 widespread access to essential raw materials, and have profited from the stimulus of keen 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.


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 consider the measures on the calendar, beginning with Calendar No. 788.

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. 1180) to amend section 3 of the Administrative Procedure Act, chapter 334, 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 the word "records" (a) and (b), every"; in line 6, after the word "shall", to insert "upon request for identification of records made"; in line 8, after the word "place", to insert "fees to the extent authorized by statute"; in line 9, after the word "made", to strike out "all its" and insert "such"; in line 14, after the word "records", to strike out "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 "information", to insert a semicolon and "(9) geological and geophysical information and data (including maps) concerning wells"; so as to make the bill read:

As enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section
Regulations: The power of the Senate to establish rules of its proceedings is one of its most important powers, and one that is not often exercised. The Senate rules are usually issued by the Clerk of the Senate, and are published in the Federal Register. The Senate rules are an important source of information for all those who wish to participate in the Senate's work, and they are also an important source of information for those who wish to study the Senate's history and procedures.

The Senate rules are divided into two main parts: the rules of the Senate, and the rules of the Senate Standing Committees. The rules of the Senate are divided into two main categories: the rules of order, and the rules of conduct. The rules of order are designed to provide a framework for the Senate's work, and to ensure that the Senate's business is conducted in an orderly and efficient manner. The rules of conduct are designed to ensure that the Senate's work is conducted in a manner that is fair and impartial, and that all Senators are treated equally.

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found." This is a double-barreled loophole because not only is there the vague phrase "for good cause shown," but the further excuse for withholding if persons are "not properly and directly concerned." 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.

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. The section罗2may be "unconstitutional" (3) that the person making the request was not "properly and directly concerned." And, if he has a reason to believe materials of validity, there is absolutely nothing that a citizen seeking information can do because there is no remedy available.

What Section 3 Would Do

S. 1160 would do S. 1160 would declare 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 a new procedure for requesting what records should and should not be open to public inspection. In particular, it avoids the use of the "for good cause shown" and replaces it 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 has the right to know what its Government is doing. There is, of course, a certain need for confidentiality in some aspects of Government operations which are protected specifically; but outside these limited areas, all citizens have a right to know.

3. The relevant section 3 gives to any aggrieved citizen a remedy for getting what is his due.

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 disclosure from the Federal Register of necessary official publications. In other words, the complaints 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 (c).

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 public information 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 public publications in the Federal Register. This may be helpful in reducing the bulky present size of the Register.

The next section imposed for failure to publish the pieces of cases 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 the proper authority to the agencies to publish the required material.

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

The phrase "... and is addressed to and served upon named persons in accordance with law * * *" was stricken because section (3) as amended only requires the publication of orders of general applicability.

"Rules of procedure" was added to remove an objection to the phrase "in forma" was added to eliminate the need of publishing lengthy forms.

The new clause (2) 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, rules, and regulations must be made available. The exceptions have again been moved to a single 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 or secret matters. In other words, 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 that an individual has an open case, and habitable housing 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 or policy, interpretation or staff manual or instruction * * *" that is made available.

Requiring the agencies to keep a current index of any orders, opinions, etc., is necessary to afford the private citizen the essential information to enable him to deal effectively and know his rights in Federal agencies. This change will prevent a citizen from losing a controversy with an agency because of some obscure or 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,conference or costs and expense cause this indexing requirement to be made prospective in application only.

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

The section 3(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 cited as precedent by an agency.
There are also a number of technical changes in section 3(b):

The phrase "and copying" was inserted in order to provide 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 materials is essential to in-spect and makes the latter right meaningless.

The addition of "* * * concurring and dissenting on the bill to be passed" ensures that, if one or more agency members dissent or concur, the public and the parties should have access to these views by regulations. The "* * *

subchapter (c), defines what materials are subject to section 3(b)'s requirements. The "unless" clause was added to agencies which claim alternate means of making these materials available through publication.

Description of subsection (c)

Subsection (c) deals with "agency records" and will provide, almost the reverse result of present subsection (c) which deals with "public records." Whereas the present subsection provides a right to agencies to locate the requested records. This subsection provides a right to the requestor 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 commitment for any alleged wrongful withholding of any agency records by any 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 located, to compel the agency to pay the costs and reasonable attorney's fees of the complainant as in other cases.

That the procedure 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 being a shamless judicial sanctioning of agency discretion.

Placing the burden of proof upon the agency puts the task of justifying the withholding of the records on the agency. The private party can hardly be asked to prove that an agency has improperly withheld records. The aggrieved person cannot know the reasons for the agency action.

The court is authorized to give actions under this subsection precedence on the docket. Complete and wrongful withholding shall be heard "at the earliest practicable date and expedited in every case."

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 open to the public.

Agency practice in this area varies. This change makes the publication of final votes of agency members an uniform practice provided for a very important part of the agency's decisional process.

Description of subsection (e)

Subsection (e) deals with the categories of materials which the agencies are to exclude 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 phrase "in the public interest" is made both to define more narrowly the exemptions of the term "national defense or foreign policy." The phrase "public interest" is included in section 3(e) of the Administrative Procedure Act has been subject to conflicting interpretations, often colored by personal prejudices and predilections. It admits of no clear definitions, and it has served in many cases to defeat the very purpose for which it was intended—the public's right to know the op-

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foregoing, rather than protecting the public's interest, it has caused widespread public dissatisfaction and con-

sideration in section 3(a) is, therefore, inconsistent with the general objective of enabling the public readily to gain access to the information necessary to form an opinion upon equal footing with Federal agencies.

Exemption No. 2 relates only to the internal procedures of any Federal funds. Examples of these may be rules as to personnel's use of parking facilities or regulation of lunch hours, statements of policy as to personnel's use of personnel services of Federal agencies.

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 in confidence." This section is necessary to protect the confidentiality of information which is obtained by the Government through contracts with other persons but which would customarily not be released to the public by whom it was obtained, such as business sales statistics, inventories, customer lists, and manufacturing processes. It would also include information customarily subject to the protection under the Stockholder, borrower, and other such privileges. Specifically, it would include any commercial, technical, or financial information disclosed 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 subject to public scrutiny. It was also pointed out that Government would be greatly hampered if, with respect to legal and policy matters, all Government agencies were prematurely revealed to the public. 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 26 U.S.C. 7805, and "...and such similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Such agencies as the Treasury, Administration of Education, 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 open to the public, and the committee has made a number of exceptions to the disclosure of personal information, rather than a number of specific statutory authorizations for various agencies. It is believed that the exception 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 private right to privacy, the affairs of unnecessary public scrutiny, and the preservation of the public's right to govern-

ments, and for the national interest.

The phrase "in the public interest" is particularly to those Government agencies where persons are required to submit vast amounts of personal data. 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 agents or other persons for law enforcement purposes. 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 designed specifically to insuring the security of our financial institutions by making available only to the Gov-

ernment 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 makes clear that because this section only refers to the public's right to know, it cannot, therefore, be backhandedly con-

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 "agency" as 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, demeans 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, or-

dered 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 re-

port (No. 914), explaining the purposes of the bill.

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

PURPOSES 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 for the first time. Since 1948, because the ratio of fees to expenditures has dropped from 100 percent to 63 percent for fiscal year 1958 and since the decline in receipts has resulted in expressions of concern from the Appropriations Committees of both the Senate and the