Considered and Passed House, June 29, 1966, 112 Cong. Rec. 13067*

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 294 of the act of June 11, 1946 (50 Stat. 295), to clarify and protect the right of the public to information, and for other purposes.

The Clerk read as follows:

Mr. Speaker, is a second demanded?

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

Mr. Speaker, without objection, a second will be considered as ordered.

There was no objection.

Mr. MOSS. If, by 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 this bill provides for judicial review of the 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 the policy this committee has, with the unanimous understanding that the committee has 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; important 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 a tendency toward a spirit of noncooperation in Government.

Mr. Speaker, I must confess to disquiet at efforts which have been made to point out 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 but 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 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 President of any 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 the only solution is vital to the future of democracy in the United States. The individual instances of withholding of governmental action 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 look for dramatic instances that the problems were really the day-to-day affairs, the daily occurrences in the course of an official who has a proprietary attitude toward Government. In fact, the subcommittee’s very first hearing I said:

"To exploit the information, the subcommittee is trying to develop all the pertinent facts, and, in effect, lay 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 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 for removal of 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 intellectual body. It does not have to qualify as a main course to be important intellectual food. It might be a dash of flavor to sharpen the wit or satisfy the curiosity, but it is basic to the intellectual diet as are proper seasonings to the physical diet.

An attitude is recognized this need by guaranteeing free speech and a free press. Mr. Speaker, with the assurance of experience, I hold the same responsibility as inators of the cause to do all in our power to strengthen these 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 Administrative Procedure Act. The law now permits withholding of Federal Government information if it is "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 shown” and if no good cause can be found for secrecy, the records will be made available 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 any 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 which we have access to public records, stating that the great majority of records shall be available to "any person" that there the standard will be the substance 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.

"*The NHL (S. 1160) passed the Senate by voice vote without objection or debate on Oct. 15, 1956. (111 Cong. Rec. 36820). (48)
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 the 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 the Government. We are simply attempting to enforce a basic public right—the right 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 the Government, it will not foreclose disclosure of specific categories of information such as personal or sexual data, true official secrets, or personal 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, and 25 other Members of both political parties, and the 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.

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 widely supported by a cooperation of White House and congressional representatives of the majority Government agencies, and with the utmost cooperation of the Republican members of the subcommittee: Congressman Oaker R. Rem, of New York; Congressman Donald Rumsfeld, of Illinois; and the Honorable Harold H. Brown, of Michigan, now serving in the Senate. And 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 expert in the House who has given his undivided support that no fault could have been accomplished. So I take this occasion to pay personal tribute to Congressman William L. Dawson, my friend, my confidant and advisor 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 Senators from the great State of Missouri, the late Senator Thomas Hening and his very distinguished successor, Senator Edmund S. Muskie, who authored the bill before us today.

And there has been no greater champion of the people's right to the facts of Government than Congressman Daniel W. Fasick. I want to take this opportunity to pay the most sincere and heartfelt tribute to Congressman Fasick who helped me set up the Special Subcommittee on Government Information and served as a most effective and dedicated member for many years. And to those Members 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 chairman of Freedom of Information Committees and various organizations that have supported the legislation.


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 the 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. 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 act. In fact, I am proud to have played a part in seeing the law finally become a reality.

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. The Act created a system of review with attorneys for the right to access the information sources 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 the principle that the public has not only the right to know but 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 new 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.
Finally, the present condition of nonavailability of public information has perhaps been encouraged by a disregard of the American people of this truism; the freedoms that we daily exercise—our democratic freedoms—are not easily obtained nor are they easily retained. Inroads on the rights of the individual are not made without effect, are they easily recovered. For freedom once lost are not readily revitalised; 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 democracy in the affairs of their government. The overwhelming importance of the Public Records Act is currently under examination as can be understood from the background of the present dispute concerning the legitimate bounds of the government's power to control the press. It is one of those rare occasions when the public has the power to exert a significant influence on the government's affairs.

The people are the informed public. They must first accord 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? How does it produce the Constitution of the United States? Were the public to ask, the representatives of the House of Commons and the House of Lords had adopted practices prohibiting the publishing of their votes and their debates. Since the sovereign's threat and other remonstrances were insufficient to break the rules of the House, the public's task was to be reported accurately and comprehensively in the press. The public's role was to be informed and to hold the representatives accountable for their actions. In this way, the public became the guardian of democratic freedoms.

The House of Commons and the Senate were the primary venues for debating and enacting legislation. The importance of the House of Commons was underscored by the fact that it was the sole body to have direct input into the constitution. The House of Commons was more accessible to the public than the Senate, which was more removed from the general population. The public was not left in the dark regarding the actions of the House of Commons, as they were held accountable to the people and their representatives. The public's role was to monitor and influence the decisions of the representatives.

The annals recorded the history of freedom in the press tell of tumultuous periods when the public sought means of circumventing the bans on publishing legislative records. As early as 1709, one Abel Boyer violated the letter and the spirit of the law by publishing the debates of the House of Commons of Great Britain. He did so, however, without incurring the full measure of official wrath. Boyer was committing the full names of participants in debate, and by delaying publication of the proceedings of the House of Commons by an act of his deliberations until after it had adjourned, he was able to achieve his purpose. Others sought to make the effectiveness of the restrictions known by revealing the activities of a member of the House of Commons. Later on, similar acts were committed by others.

"No news writer shall publicize their letters or other papers that they disperse as minutes, or under any denomination, to intercede with the representatives, or any other proceedings of this House, or any committee thereof."

Those who depended on delaying official papers 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 false political details. Their readers were, nevertheless, aware that the accounts were those of Parliament. Public demand for additional news was heightened, but the printing process was not suspended. In 1829, a public motion was introduced to the House of Commons to abolish the office of the printer. The public's desire for additional news was not quelled, and the printers and editors continued to publish their reports. The public's right to know was protected, and the press continued to function.

In the Colonies, too, Americans conducted determined campaigns paralleling those waged in England. Colonial governments were confronted with formidable opposition. The efforts of Parliament to exclude representatives of the press and to restrict their access to parliamentary proceedings were not easy to overcome. The governments of the Colonies were under the influence of the British government, which sought to control the press and restrict the freedom of the colonies. The British government feared the influence of the press and sought to limit it to prevent the spread of dissenting ideas and to maintain control over the colonies.

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ness 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 his duties and 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 communications to the President, and other papers patent in their nature; to the latter, private letters, conversations, and other communications deemed proper to be concealed and held secret."

To the other belong more executive proceedings. All nations have found it necessary, that for the advantages of conducting their affairs, some of these proceedings, at least, should remain known to their executive functionary only. In the event of the case, must be confidential to the executive head, or the public interests will be prejudiced. 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 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 the Freedom of Information Act. Congress passed the FOIA to permit interested parties to ask for access to Federal agency records subject to certain provisions that allow agency personnel to classify as "unavailable to the public" materials "required for good cause to be held confidential." All material will be withheld only upon request unless it clearly falls within one of the specifically delineated exempt public records categories. The provisions 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. As a result, 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 the 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 and instructions are compiled or obtained for sale or price.

We have not labored long and hard to establish firmly the premise that the public has a 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 these rights can be reconciled with the inevitable collision of 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 data from public information. The phrase "personally identifying" is incorporated to prevent the "invasion of personal privacy clause" from being distorted and used as a broad shield for unnecessary secrecy.

To ensure that no citizen will be denied full access to data that may be of critical importance to the exercise of his right to know, for want of knowledge of its existence, each Federal 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 who are visibly concerned by the prospect of a change in the controversial public information section of the Administrative Procedure Act. We search in vain, for what we seek does not presently exist.

Second, the liberties and fundamental rights are inherent in the relatively unchecked operations of a bloated, bloated-and-bureaucratic-thrusting 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 we to-day 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 submissions or requests, or obtain decisions," the individual may be more readily apprized 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 incorporated. Subsection (a) of S. 1160 publicizes Federal Public Records Act legislative provisions that allowed agency personnel to classify as "unavailable to the public" materials "required for good cause to be held confidential." All material will be withheld only upon request unless it clearly falls within one of the specifically delineated exempt public records categories. The provisions 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. As a result, 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 the light of the proper functioning of the Government.

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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 justify 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 and overall reduction in freedom. As the forces of secrecy gain, the forces of freedom lose. It is, therefore, incumbent to recognize the truth of 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 vast, and in doing so 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, a broader possible range of information. I feel that the proposed amendment is based on the belief that the 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, 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 intragency 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 which are accessible 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 liquefied petroleum gas, and 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 any—no matter how small—to its principles and institutions. 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 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—without or without Executive concurrence—where the public is involved. It thus helps to reaffirm the legislative role in the production of ture 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 policy making 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 expected the triumphant results of our support of the bill and the gentleman's amendment to the bill.

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 in-
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.

I believe this legislation would be the first requirement 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 salutary improvement. The exemption, I think, are narrowly construed and the public's right to access is much more firmly protected.

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 applause of this House, has pointed to the fact that a number of groups and newspaper organizations strongly support the legislation. I urge you to state that it does enjoy the support of the American Society of Newspaper Editors, the American Newspaper Publishers Association, Sigma Delta Chi, APME, and all of the important national and regional organizations—professional and for-profit—of the business.

Mr. EDWARD HUGHES, chairman of the legislative committee of the New York Newspaper Publishers Association, has written me that enacting "proper and workable" freedom of information legislation at the federal level "has the direct and great interest and importance to us." Mr. Hughes concludes 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 appalled to any legislation to this legislative body.

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, that it greatly strengthens the exemptions, but its significance is in my view clearly that it is important—and I have no reason to doubt this—that the President sign this legislation promptly.

I would like to draw 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 actions of the Congress up to this day, 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. FULLER of Pennsylvania, Mr. Speaker, will the gentleman yield?

Mr. FULLER: The gentleman from New York [Mr. Ruml] on his excellent statement, and also his dedication to duty in studying and contributing so much to working out good rules and regulations of information in Government departments and agencies.

Along with those others who have been so keenly interested in the right of access to Government facts, the gentleman from New York [Mr. Ruml] should certainly be given the highest credit.

Mr. KUNKEL of Pennsylvania, Mr. Speaker, 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 oversetting job to see that it functions as intended.

Mr. REID of New York, I thank the gentleman for his thoughtful statement. I will have a good deal to say on this bill, as my distinguished chairman has just done. I think that this bill must be reared by each generation. I believe the greater access that this bill will provide sustains that great principle.

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

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

Mr. LARRI, 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 break-through. For the first time, it is providing information that is not endangered by the pressures of the bureau of the Press 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 sides—and the absence of any opposition here in the House is clear evidence of the very real concord 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 about 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 this first step toward closing it.

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 we are strong, self-reliant, and courageous, and are worthy of such confidence. Americans have faced grave crises in the past and have risen nobly. It was a great Republican who towered above partisanship who warned that you cannot fool all the people all of the time, and it was a great Democrat 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 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 information which he needs and to which he is entitled. It helps to shatter the paper curtain of secrecy which covers up public mismanagement with public misinformation, and secret sins with secrecy silence. I am confident that I speak for most of my Republican colleagues in urging the 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 15 by my friend, the distinguished chairman of our policy committee, the gentleman from Arizona [Mr. Riordan]:

The Republican Policy Committee endorses the Committee on Government Operations, S. 1160, and 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 the like. 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 Press Club, and the American Association for Public Information urged the enactment of this legislation. Due to the opposition of the Johnson-Humphrey Administration, however, this proposal has been bottled up in the Committee for over a year. Certainly, information regarding the business of the government should be made available, and the government should be allowed to hide and conceal from the public 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 so that the public might compare what was bid with what was paid, were withheld from the public even though it appeared that the firm which had won the contract had not submitted the lowest bid. Moreover, it was only as a result of searching inquiries by the press and Senate KUPFER (R., Calif.) 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 by the statutory authority for 24 separate classifications devised by Federal agencies to keep administrative information from public view. Bureaucratic goldbelyogek used to deny access to information has included such gems as: "Eyes Only, New Official Use," "Confidential Treatment," and "Materially Affecting Equations on Availability of 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 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 efforts to obtain information about their Government and about their world. This legislation will help to blaze a trail of truthfulness and accuracy of disclosure in what has become a jungle of falsification, unjustified secrecy, and misstatement by statistic. The Republican Policy Committee voices the prompt enactment of this legislation.

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.
and the gentleman from California [Mr. Moses], 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 property and correctly to the American people.

As long as we have a fully informed 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 bipartisan support, which is necessary for the achievement of this long-standing and vital goal.

Mr. Speaker, this is indeed an historic day for the people of America, for the community of 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 insurmountable 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 information is being interfered with, by accident or by design.

We cannot, however, pleadingly 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 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, with such an amendment for a long time. In fact, on February 27, 1965, I introduced a companion bill, H.R. 5018, 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, even 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 can obtain general information about their 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 shown that this language has been interpreted 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 who have a substantial interest in the determination of a particular case and who are not informed of the 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 "property 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 a section 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. 518 accompanying the 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.

3. It establishes a uniform system of different records, the burden of proof of 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 personal social security numbers which would constitute an invasion of privacy, specific 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.

In my opinion, the most important part of 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 restraint 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 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. In turn we give back the people 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 the House and in the Senate are these guarantees of the freedom and democracy 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 dedicated effort to freedom of the press, and his action on behalf of this bill.

Mr. HECHTLE. 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 Liberti," 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 held 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 keep only the good things and suppress anything which they think might hurt the image of the agency or even officers thereof. There are numerous categories and projects which would be sprung free 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:

"For Freedom of Information, Senate Bill 1160 Is Needed"

If our is a truly a government of, by, and for the people, then the people should have access to information on what the government is doing and how it is doing it. Excessive secrecy is not only un-American but also un-American.

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 absolutely withheld or concealed in such a manner that investigations require elaborate and expensive records.

A good example occurred last summer, when the Post Office Department, in response to a Presidential directive, hired thousands of young people who were socially active and politically interested to get the names of the bathers in order to check their qualifications, the Department cited a regulation forbidding release of such information.

The then Postmaster General John Gronousky finally gave out the names (which confirmed the suspicions of the press), but only after a congressional committee of Congress with the Postmaster General of the Post Office Department directed the score of inquiry.

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 who could provide for court action to obtain unjustified secrecy. And of course it makes the essential exemptions for "sensitive" government information involving national security.

Congressman DONALD RUMSFELD (R-III.), 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 denied, the press can go into Federal Court in the district where it is held and demand the records producing information."

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 a similar bill 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 without 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 13, 1961]"

"BILL REVEALING U.S. ACTIONS TO PUBLIC VIEW NEEDED"

"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 same in several federal district courts to obtain information improperly withheld."

"This is legislation of vital importance to the American public, for it would prevent the Government from hiding information for the purposes of covering up wrongdoing or mistakes, and would guard against the practices 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; 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."

"By DONALD RUMSFELD, R-III., who with Rep. JOHN D. Moss, D-Calif., is leading the fight for the bill in the House."

"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 it on 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 employees last year. In 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 congressional patronage thousands of jobs that were supposed to go to economically and educationally disadvantaged youth."

"The Senate designates regulation of 744-44, which states that the names, salaries and other information about postal employees should not be given to any individual, governmental or non-governmental 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 youth, 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."

"Federal government is a vast and complex operation that reaches into every state and every community, with literally millions of employees. When 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."

"I:name, Rep. RUMSFELD pointed out. Any bureaure can deny requests for information by saying up Section 2 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 employees from the public view, will in the very least, incline them to be careless in the way
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. Mr. Speaker, 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 House's most influential leaders have worked to prevent the House from acting on the bill before us today. Joining my colleagues in opposing 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:

[Framed 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.

"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 use to meet 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 the President's desk this month. How it will be received at the White House is not clear. In 1966, 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 government-wide, 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 in 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 exceptions 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 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 is 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."

The range goes 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 employees, 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. S. 1160, 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."

(Pharmaceuticals 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 his colleagues with his diligence and knowledge of purpose and was made chairman of the new subcommittee. His characteristics proved valuable in the venture he undertook.

The secret of a few 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 proscribe rules for the custody, use and preservation of its records. 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 line who have claimed "executive privilege" in refusing to divulge information, and in 1962 he succeeded in getting a letter from President John F. Kennedy saying that only the President would invoke it in the future.

President Johnson gave Moss a similar pledge last year."

"Born by newspapers"

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

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 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 identified officials pursued anonymity by keeping everything they could from public view. Expansion of federal activities in recent years made the problem more acute."

In 1958, Moss and the late Sen. Tom Kennings, 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.

"In 1962, 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."

"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, "An airplane worthy of the name should be able to find some place in those exemptions to look 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 50 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 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 is happening. Several systems 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 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 J. Colburn, editor and publisher of the 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 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 by some Government agencies to a simple concept. That is the concept to share the legitimacy of power with the people.

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

"Good government in those 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.

Furthermore, 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 J. 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 amends 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.

However, Mr. Speaker, for information, that any 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 correct upon the agency.

It is 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 an arrest of the credibility gap between government and citizens 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 because congressional committees and there has been questions raised whether this was done for security reasons or political reasons.

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

I hope that the Joint Committee on the Organization of the Congress will give serious consideration 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. RUMSFELD. Mr. Speaker, will the gentleman yield?

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 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 been courageous and relentless against executive secrecy of information which should be available to the people. The hearings 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, I 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 proud 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. He has 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 this 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. I would like to add that it is up to us, as representatives of the people, 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 requiring a court review of agency decisions under those 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—most 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 an appointed Department.

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 in the White House and in the Capitol. 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 House Subcommittees on Foreign Operations and Government Information favorably reported the bill, and on April 27, 1969, the House Committee on Government Operations reported the bill out with a go-ahead 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:

1. 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.

2. That, this bill would establish a procedure to guarantee individual access to public records through the courts if necessary.

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

I believe it is important to state that the bill is not. The bill does not affect the relations 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 its citizens, to the 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."
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 the disclosure of Government information is particularly important today because Government is becoming involved in more and more aspects of everyone's personal and business life, and so the access to information is vital. The information beingunital is exercising its right 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 is an awesome responsibility, the most awesome of which is 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.

As a man of 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.

The 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 magnificent 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 continuance of our political systems guided by public opinion.

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 legislative affairs as it is conducted in the executive branch of the Government. However, in the days of the right to lie, the right to not commit and not commit, and in the days when the people are not 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 urge the support of my colleagues in passing the Freedom of Information Bill, designed to give 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 Government administration. Full disclosure.

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.

From the WOODY, submitted to the House by the Committee on Government Operations to accompany S. 1160, concludes:

"A democratic society is an informed, intelligent electorate, and the intelligence of the electorate varies as the quantity and quality of the 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 newspapers, 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 affairs.

"More than ever, the public is eager 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."
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 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 in to the public's expectations, which were embodied in the 1966 Freedom of Information Act. Instead of working in good faith to educate the public about their right to know, many agencies continued to withhold information. This practice not only blocked the public's right to know, but it also created a perception that the Federal Government was less than transparent.

As a member of the House, I was pleased to support this legislation which would clarify the right of the public to information. I believe that in a democracy, it is vital that public records and proceedings 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 when it is in the interest of national security. This consideration must be balanced with the public's right to know. The balance is struck by S. 1160.

In a democracy, the public must be well informed if it is to intelligently exercise its franchise. Logically, there is little room for secrecy in a democracy. But, we must be realistic 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 privacy of the information is best protected by the President's 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. The law 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. These 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; and
3. documents 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 of the public 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 justifiable 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 stated in an editorial in the Wichita Eagle, it is "not a bad bill."

"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."

Lange, 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 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 when it is in the interest of national security. This consideration might result in an unwarranted invasion of personal privacy. It impairs investigation for law enforcement purposes, or diverts valuable trade or commercial secrets. The bill is, as a member of the House, I am particularly anxious to offer my strongest support for this measure, S. 1160, and praise for its sponsor, the gentleman from California (Mr. Moss). I would also like to offer my thanks to our distinguished colleague, the gentleman from Illinois (Mr. Dawood) 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. Democrats derive an enormous measure of strength from the consent of the governed. And consent is authoritative when it is informed. In assuring the rights 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 continuing reliance on Federal power—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-interests.

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 hearings, the Committee has identified 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 housekeeper's 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 110, has been an obstacle rather than a means to information availability. The section has been invoked to justify refusal to disclose. In the meantime, members of the public have had no remedy to force disclosures or appeal refusals.

I believe S. 1160 takes important steps to rectify that imbalance. Certain ambiguities in section III of the Administrative Procedure Act are clarified. The section makes it easier to get access to Federal records, and the protection for the private party is strengthened. Records must now be available, in the new language, to "any person." Instead of the vaguer language of "good cause found" and "public interest," new standards for exemptable records are specified. And, perhaps most important, agencies are required to keep their records open to public inspection. And it is demonstrated that there 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 open to public scrutiny. Our Subcommittee, in particular our Subcommittee, headed by our energetic colleague from California, has put together proposals which we believe will reinforce public rights and democratic review.
Mr. POPP. 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, never before, the Federal Government is a complex entity which touches almost every fiber of the fabric of human life. Too often, the overzealous bureaucracy uses his discretionary power to blot out a bit of intelligence which the public is entitled to know. This is true not only with regard 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 is quoted as having said that he could choose between withholding 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 certain 26 classifications used by the Federal Government 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 things 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 overreaching into areas that might be dangerous. I agree with Mr. Poppen. 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 Federal Bureaucracy has been repeatedly criticized for its secrecy.

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 a law like the one 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. This time, however, we are dealing with the people's right to know the truth about the activities of its Government, called for passage of a law like the one 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:

Most Americans probably imagine that their right to be informed about what their government is doing is unchallengeable. 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 most difficult problem for House consideration next Monday will be the right to know. This is the product of a 15-year study of the entire problem of freedom of information directly by Representative Jose 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 bill is too complex to be dealt with in a single piece of legislation.

But Representative Moss feels—and a Senate majority obviously agree 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 paper designed solely for the internal use of a governmental agency.

"Most important, perhaps, the bill says that a particular document should be withheld from public view unless it is being improperly withheld; the Moss bill requires that the person who seeks a particular document must not be asking for access to his own complete file. Federal agency involved proved that its release would be detrimental.

"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 guarantee of a free press is a matter of interest and concern only to those in the newspaper publishing business. 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 main thing 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.

"It may be easy for small-town Americans to imagine that the battle Representative Moss is waging has been for more than a decade has been a battle in the interests of the Nation's information media. But the right of the public to know has been, and is, the right of the man in the street to know. It is his right to know about his government—its failures and mistakes, its triumphs and 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, June 15, 1966]
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.

Moreover, 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 conduct of our democratic institutions.

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 outlawing the secrecy of Government information so essential to proper democratic functioning. 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 workings of the democratic process. Americans have a right to know, and the courts have recognized 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 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.

I do not condone, of course, the 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, as a Committee of the Senate, are recommending, as I think, that it is time 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 made public. For example, S. 1160 contains basically the same framework outlined as I 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 assure adequate dissemination of authorized information, thereby removing much of the confusion resulting from different standards and practices under existing laws.

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 regarding S. 1160, freedom-of information, was adopted. As chairman of that 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 over a year. Congress has been told a lot regarding the benefit of this bill, the proposals that the government should be shared with the people. The screen of secrecy which now exists is a barrier to public in pursuit of information vital to their welfare, and to Members of Congress as they seek to carry out their constitutional duties.

"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 public agency to disclose any agency records that it is not public interest in the public interest of the government should be shared with the public. The screen of secrecy which now exists is a barrier to public in pursuit of information vital to their welfare, and to Members of Congress as they seek to carry out their constitutional duties.

"Certainly, as the Committee report has stated: "No Government employees at any level should have the public interest in the way they do now. The purpose of this legislation is to give the public a right to know what goes on in every branch of Government."

"This legislation will help to make it impossible for the Government to keep important information secret. It will enable the public to have access to the same level of information as the press. The Republican Policy Committee urges the prompt enactment of S. 1160."
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 lead them to enlightened decisions.

Mr. Speaker, I rise in support of S. 1160. The purpose of this bill is to amend section 5 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 is to clearly and protect the rights of the public to information, for only in a democracy like ours do 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 nor to internal personal and personal privacy and 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 Government 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 noble obscurity.

S. 1160 will amend section 5 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 thus the public's right to information.

Consider the contractor whose low bid has been summarily rejected without any logical explanation or the conscientious reporter who is seeking material for a serious article on the operation of a particular agency. Many instances of record-rejecting and misclassification, for example, the "agency's use only" or "Government security" filing cabinets, or the contractor or concern will be denied even information simply by having the agency classify him as a person not "properly and directly concerned." When this occurs, a 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 which is added 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. Speaker, in a time where public records are more and more becoming private information of the Government and personal privacy part of the Government record, I am pleased that we are taking steps to eliminate the public's right to information 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 growth of our official bureaucracy has led to a situation where citizens are now forced to go 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 now hide the government's actions from the public. Directly concealed and inaccessible to the public, the American public must have the right of inspection into its own government or that government fails to belong to the public.

Doing out public information only cripples the electorate which needs to be strong if it is to govern our country.

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 the government, we must also protect the citizens' 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 government 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 is no longer thought as an average citizen. But such a repugnant act cannot afford to be uncourted. Such practices should never be permitted without a court order.

When we discover the training of lockpicking, wiretapping, eavesdropping, and other means of governmental agencies, the bounds of a democratic society have been overstepped, and we approach the realm of a police state.

Let no one 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 these insidious tactics which threaten to slowly choke all personal and political 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 invasion of a citizen's privacy.

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 open for all the whole field of democratic powers to be realized.

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 public, on the pretext that it was information that could be classified as "prejudicial" to the public. 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 such records from the public.

Four years later, President Kennedy used the executive privilege 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 5 of the Administrative Procedure Act of 1946 providing for the right 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 should be respected. Unfortunately, some official has been the simplest and most direct objection of opponents of withholding information from Congress, the press, and the public.

Under the cloak of such generalizations, in section 5 as "a public interest" or "for good cause found." Yet, virtually any information could be classified as "prejudicial" and thus withheld from the public.

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.

"The right of the people to speak and the right to print was the right to know—" Stites 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 useless.

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

"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 better than 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 better than a farce or a tragedy or perhaps both."
It is here that the freedom of information bill comes to grips with the central problem of the issue by substituting nine specific exemptions for disclosure for which a citizen could appeal with the withholding information to a U.S. authority to the Federal district courts to order production. These exemptions for the non-disclosure of information are: the withholding of information the citizen is seeking falls clearly within one of the provisions of the bill. If the court decision is appealed, the case can go to the U.S. Supreme Court.

One of the important provisions of the bill is subsection 5, which grants the authority to the Federal district courts to order production of certain information. The bill provides for the withholding of information the citizen is seeking falls clearly within one of the provisions of the bill. If the court decision is appealed, the case can go to the U.S. Supreme Court.

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 non-secretary departments that their information will not be disclosed to them. Incredulous as this is, I think most of us have run into similar roadblocks.

The issue is a simple one: the public's right to be properly informed. Too many agencies seem to have lost sight of the fact that they should work for the public interest. 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. Dwina B. Ranker, the present bill is one of the most important to be considered during the 86th 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 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.

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

There has been some speculation that strengthening the right of access to Government information, the bill, as drafted, may inadvertently permit the disclosure of 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 clear that the bill in no way affects categories of information which the President—stated in the committee report—has determined to protect the national defense or to advance foreign policy. These areas of information most generally are classified under Executive Order 10501.

I am glad to note 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.

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

As a matter of fact, Mr. Speaker, I intend to vote in favor of this vital 999 important freedom of information bill. With all the hearings on it that we have had about it, we should not find, as I am afraid, 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 cannot be a 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.
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 over 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. MATSUMAGA. Mr. Speaker, I rise in support of S. 1106, a bill to clarify and expand the public's right to know, and to commend the gentleman from California [Mr. Moss] and his subcommittee for reporting the bill out. As chair 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 efforts 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, neither the President will 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 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.

The corruptions of evil 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] on his final success in his unifying efforts. There is no doubt in my mind that this bill will pass without any dissenting vote, but I nevertheless urge unanimous vote.

Mr. HUNGRATE. 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 characterized the offer of numerous avenues of access open to the public. It is equally true that, down through the years, our government 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. 1106, the Federal Public Records Act, a bill authored by my distinguished colleague from Missouri, Senator Edward V. Long, captures the imagination of countless millions of responsible Americans. It is not only a well-considered response to the frustration of being denied information to which they justly deserve access.

For far too long, guidelines for the proper disclosure of public information by the Government has 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 far-sightedness 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. 1106, the Freedom of Information bill; H.R. 13136, the Allied Health Professions Training Act; and H.R. 15139, the Unemployment Insurance Amendment. None 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. 15139, 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 journalism 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 light of the world shall be made manifest, as well as the support of journalism and the 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 government's activities, as covered in this bill, one cannot support the principle of freedom and democracy upon which our Nation is built.

While as 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 people’s 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 "headlines" tell the whole story, but it does make life a little easier for all of those who want to get the facts, Mr. Speaker.

While the record will show that I was 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. 1106.

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 and Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yes 306 nays 0 not voting 125, as follows:

[Omitted]