the request of the gentleman from Indiana?

There was no objection.

TRANSFERRING CONSIDERATION OF S. 2149 FROM COMMITTEE ON MERCHANT MARINE AND FISHERIES TO COMMITTEE ON ARMED SERVICES

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent to have the Committee on Merchant Marine and Fisheries discharged from further consideration of the Senate bill S. 2149 and that it be referred to the Committee on Armed Services.

S. 2149 would amend title 10 of the United States Code to provide certain benefits to members of the Coast Guard Reserve, and for other purposes. It is my understanding that this arrangement is satisfactory to the chairman of the Committee on Armed Services.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

FREEDOM OF INFORMATION ACT AMENDMENTS—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on H.R. 12471, an act to amend section 552 of title 5, United States Code, known as the Freedom of Information Act.

The question is: Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD) for 1 hour.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 5 minutes.

(Mr. MOORHEAD of Pennsylvania asked and was given permission to revise and extend his remarks, and include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is a rare experience for any Member of this distinguished body to lead off the debate in an effort to override a Presidential veto. In my almost 16 years of service here, it has never before been my responsibility to handle a legislative measure in this situation, under the procedures prescribed in section 7 of article 1 of the Constitution. It is an awesome task for any Member and one that requires the deepest reflection and most careful consideration of such a course of action.

A little more than 6 weeks ago when I stood here in the Chamber and urged approval of the conference report on H.R. 12471, The Freedom of Information Act amendments, it never occurred to me that a Presidential veto might be forthcoming. I explained in detail on that October 7 the changes agreed to by the House-Senate conferees, how they differed from the bill originally passed by the House on March 14 of this year, and the sincere efforts which the conferees of both parties made to accommodate the specific concerns raised by President Ford. I included at pages H10002–H10004 of the RECORD the full text of the President's letter outlining these concerns and the text of our letter to the President detailing each of the significant modifications which we made to allay his concerns.

Other distinguished members of the conference committee, including the ranking minority member of the full Government Operations Committee, the gentleman from New York (Mr. HORTON), and the ranking minority member on our subcommittee, the gentleman from Illinois (Mr. ERLENBORN), spoke in strong support of the bipartisan compromise legislation which we had produced in almost 2 months of conference committee deliberations.

Every single House member of our conference committee had signed the conference report. Congress certainly went "more than half-way" to accommodate the President's views. We had been led to believe by administration officials that the Freedom of Information Act amendments would promptly be signed into law by the President since major Ford amendments were incorporated in the bill.

After all, he had so clearly stated upon assuming the Presidency that he and his administration were fully committed to a restoration of "open government." Surely, these amendments to the basic law to assure more "open government" within the Federal bureaucracy would provide to the President an early opportunity to prove to the disillusioned and still suspicious American public that, in fact, he really meant what he said that day on nationwide television. By signing into law with a flourish these much needed amendments to the Freedom of Information Act, he could strike a ringing blow for credibility in Government. By a stroke of the pen, he could have taken a giant stride forward to reverse the public's cynical distrust of governmental institutions and public officials. By an overwhelming bipartisan vote of 349 to 2, the Members of this body approved the conference report on H.R. 12471 and sent the bill to the White House, it having been unanimously approved by voice vote in the Senate a few days earlier. By our votes we spoke clearly for open government and for an end of excessive Government secrecy that has eroded public confidence in government, politics, and politicians. We overwhelmingly gave President Ford the golden opportunity to sign into law a bill to dramatically fulfill his 2-month-old pledge of open government in America—a bill on which our committee and this Congress had tediously worked 3 years and 4 months to finally produce in virtually unanimous bipartisan form.

Mr. Speaker, how on earth—we reasoned—could President Ford not avail himself of this golden opportunity to restore desperately needed confidence in Government by signing H.R. 12471 into law as soon as possible?

But alas, Mr. Speaker, something went awry on the way to the Presidential signing ceremony to proclaim the fulfillment of open government in the Ford administration. Incredibly, and to the amazement of virtually everyone concerned, President Ford vetoed H.R. 12471 on October 17, just prior to commencement of the congressional recess. The big question. Mr. Speaker, is, Why did he really veto the freedom of information open government bill?

Certainly, there is little evidence to answer that question to be gained from reading and rereading his veto message. We can only speculate as to what the real reasons might be. We do know that virtually all Federal agency bureaucrats opposed these amendments in our hearings, in written reports, and in their lobbying efforts against H.R. 12471. We do know that almost every segment of the Federal bureaucracy recommended that President Ford veto the legislation. We all have experienced the depth of commitment of the Federal bureaucrats to the principles of "open government" and have generally found it sadly wanting. We also know, Mr. Speaker, that 8 years ago, when the original Freedom of Information Act was passed by Congress—every single agency within the Federal bureaucracy also urged that President Johnson veto the measure. In that instance, President Johnson wisely disregarded the advice of the self-serving bureaucrats and promptly signed the bill into law. In his statement he said—and these words are particularly significant today in view of what has transpired during the past several years—

> This legislation springs from one of our most essential principles: A democracy works best when the people have all the information that the security of the Nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest . . . I signed this measure with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded.

Mr. Speaker, I can only speculate on what bureaucratic advice President Ford—by contrast—relied upon to exercise his veto power over this needed legislation. It is clear from the wording of certain portions of his veto message—particularly those dealing with the permissive judicial review of classified material authorized in H.R. 12471—that there is little understanding of either the clear meaning of the language of these parts of the bill or the intent as spelled out in detail in the conference report to meet what was a previous misunderstanding on the President's part of such language. For example, the veto message states:

> As the legislation now stands, a determination by the Secretary of Defense that disclosure of a document would endanger our national security would, even though reasonable have to be overturned by a District judge who thought the plaintiff's position just as reasonable. . . .

Mr. Speaker, this is just not true. The bill does not say that, it does not mean that, and no one familiar with the legislative history could ever imagine that Members of Congress could almost unanimously vote to write into law such an obviously dangerous provision.

bers viewed the rehabilitation effort as programs of human development as opposed to welfare, the major responsibility of the Social Rehabilitation Service. Because of the disparate nature of the programs it was believed, particularly strongly among consumer groups, that rehabilitation considerations tended to be submerged within SRS. As a consequence the full benefits of rehabilitation programs did not accrue to their users.

I regret that President Ford does not share Congress assessment of the situation and find it particularly distressing that he employed the device of a pocket veto to once again derail much-needed programs.

In addition to extending the provisions of the Rehabilitation Act until June 30, 1976, the bill before us clarifies the definition of "handicapped"; requires affirmative action in employment in State agencies and facilities; makes provisions for reviewing the case of individuals initially deemed ineligible for vocational rehabilitation; and establishes a Consumer Advisory Panel for the Architectural Barriers Compliance Board. It also calls for the convening of a White House Conference on the Handicapped within two years of enactment and establishes a National Planing Council, 10 members of which must themselves be handicapped.

Most significantly, it also clarifies and strengthens the provisions of the Randolph-Sheppard Act and thus establishes realistic safeguards for the Nation's blind vendors.

Mr. Speaker, this measure passed the House with only one dissenting vote a few months ago, while the Senate saw fit to support it unanimously. In view of the urgent, unmet needs of the handicapped, I hope that it will once again receive overwhelming support.

Mr. MATSUNAGA. Mr. Speaker, I rise in support of the motion to approve, notwithstanding the Presidential veto of H.R. 14225, the bill to extend and strengthen the important Rehabilitation Act of 1973.

The vetoed measure would continue essential financing for the program through fiscal 1976. It would also remove the Rehabilitation Services Administration from the Social and Rehabilitation Service and place it in a more productive association with the Office of the Secretary of the Department of Health, Education, and Welfare. In addition, a long-overdue White House Conference on the Handicapped would be authorized, and our commitment to the essential Randolph-Sheppard program, which permits blind persons to earn a decent living as responsible, self-sufficient vendors in Government buildings, would be reaffirmed.

I urge an affirmative vote to override the Presidential veto of H.R. 14225, so that we can insure the continuation and establishment of its essential programs.

Mr. BRADEMAS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 398, nays 7, not voting 29, as follows:

[Roll No. 633]

YEAS—398

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Baiis
Barrett
Baumen
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Ellberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Pa.
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammer-schmidt
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kyros
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Waldie
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—7

Broyhill, Va.
Davis, Wis.
Hosmer
Landgrebe
Minshall, Ohio
Ware
Williams

NOT VOTING—29

Baker
Boggs
Brasco
Camp
Conable
Conlan
Davis, Ga.
Eshleman
Gray
Green, Oreg.
Griffiths
Hansen, Idaho
Hébert
Jarman
Jones, N.C.
Kuykendall
Mitchell, Md.
Nelsen
Podell
Rangel
Rarick
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Ruppe
Teague
Traxler
Veysey
Wyman

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Hansen of Idaho.
Mr. Rooney of New York with Mr. Roncallo of New York.
Mr. Mitchell of Maryland with Mr. Davis of Georgia.
Mr. Rangel with Mrs. Green of Oregon.
Mrs. Boggs with Mr. Kuykendall.
Mr. Teague with Mr. Rarick.
Mr. Riegle with Mr. Nelsen.
Mr. Gray with Mr. Baker.
Mr. Jarman with Mr. Conlan.
Mr. Jones of North Carolina with Mr. Camp.
Mr. Traxler with Mr. Eshleman.
Mrs. Griffiths with Mr. Conable.
Mr. Ruppe with Mr. Wyman.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill, H.R. 14225, just passed.

The SPEAKER. Is there objection to

The President went on to say in his veto message:

I propose, therefore, that where classified documents are requested, the courts could review the classification, but would have to uphold the classification if there is a reasonable basis to support it. In determining the reasonableness of the classification, the courts would consider all attendant evidence price to resorting to an in camera examination of the document.

Mr. Speaker, in the procedural handling of such cases under the Freedom of Information Act, this is exactly the way the courts would conduct their proceedings. An agency, in defending an action in Federal court that involves a Government document having classification markings, normally submits an affidavit to the court explaining the basis for the particular classification assigned to it as authorized under the provisions of Executive Order 11652 and the implementing regulations of the agency involved. The court would then review such affidavit to determine the proper use of classification authority. If there was doubt, or if the affidavit was not sufficiently detailed to permit a clear decision, the court can request supplementary detail from the agency involved.

It can discuss the affidavit with Government attorneys in camera, or employ other similar means to obtain sufficient information needed to make a judgment. Only if such means cannot provide a clear justfication for the classification markings would the court order an in camera inspection of the document itself. If the examination and subsequent discussions of the affidavit from the agency indicate that the classification assigned to the particular document is reasonable and proper under the Executive order and implementing regulations, the court would clearly rule for the Government and order the requested document withheld from the plaintiff. But if the examination and subsequent discussions of the affidavit from the agency could not resolve the issue, the court could then order the production of the document and examine it in camera to determine if the classification marking was properly authorized.

Such discretionary authority for in camera review is authorized in H.R. 12471, and properly so, to safeguard against arbitrary, capricious, and myopic use of the awesome power of the classification stamp by the Government bureaucracy. Abuses of the classification stamp are well known. As former President Nixon said in issuing the present classification and declassification Executive order in March 1972:

The many abuses of the securtiy system can no longer be tolerated . . . Unfortunately, the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society, allowing too many papers to be classified for too long a time. The controls which have been imposed on classification authority have proved unworkable, and classification has frequently served to conceal bureaucratic mistakse or to prevent embarrassment to officials and administrations . . .

Former Defense Secretary Melvin Laird also said in a 1970 speech:

Let me emphasize my convictions that the American people have a right to know even more than has been available in the past about matters which affect their safety and security. There has been too much classification in this country.

Mr. Speaker, even if a district court ordered the release of a classified document in dispute, after following all of the procedural steps just described and including in camera review of the document itself, such decision may—of course—be appealed by the Government to the circuit court of appeals, and, if necessary, to the Supreme Court. I find it totally unrealistic to assume—as apparently the President's legal advisers have assumed—that the Federal judiciary system is somehow not to be trusted to act in the public interest to safeguard truly legitimate national defense or foreign policy secrets of our Government.

Similarly ludicrous legal arguments are made later in the veto message with respect to investigatory law enforcement files and time limits placed in the Freedom of Information Act for agency responses. For example, the veto message states:

I propose that more flexible criteria govern the requests for particularly lengthy investigatory records to mitigate the burden which these amendments would otherwise impose, in order not to dilute the primary responsibilities of these law enforcement activities.

Mr. Speaker, no one wants to burden law enforcement agencies or to take their attention away from the difficult job of fighting the growing menace of crime in America. The language of section 2(b) of H.R. 12471 in no way places an undue burden on such agencies. The conference committee specifically took into consideration the potential problem that might be created within an agency if it received a request for the type of "particularly lengthy" records mentioned in the veto message. We wrote into the law a provision that additional time could be obtained by an agency in cases involving "a voluminous amount of separate and distinct records which are demanded in a single request." Obviously, the President's lawyers did not notice this part of the bill before drafting the veto message.

Moreover, Mr. Speaker, we also include language requested by the President in his August 20 letter to the conference committee to authorize the courts to grant a Federal agency additional time to respond to a request under the Freedom of Information Act if the agency is "exercising due diligence in responding to the request." Here again the veto message ignores specific language already included in the bill.

Mr. Speaker, as I have attempted to explain in detail during my remarks, this veto is without merit and represents a shocking lack of understanding of the workings of the present law, court procedures, and the clear language in the bill which has already dealt with the major objections raised against H.R. 12471.

As strongly as I know how, Mr. Speaker, I urge the Members of this House to join in voting "aye" to override this ill-advised veto of the Freedom of Information Amendments contained in H.R. 12471.

Let our voices here today make clear to the doubting citizens of America that Congress, at least, is totally committed to the principle of "open government."

By our votes to override this veto we can put the needed teeth in the freedom of information law to make it a viable tool to make "open government" a reality in America, not merely a preelection slogan to be erased by the pressures of secrecy-minded bureaucrats.

Mr. Speaker, during the past several days, I have inserted into the Appendix of the RECORD more than 20 articles and editorials from all parts of the Nation urging that Congress override President Ford's veto of H.R. 12471, the Freedom of Information Act amendments we will vote on today. Many of our House colleagues have also placed in the RECORD other editorials from papers in their own districts, also condemning the unwise veto and calling for an override.

At this point, Mr. Speaker, I would like to include at this point another excellent editorial entitled "Congress Must Override Veto of Information Act Changes," from the November 7, 1974, issue of the Denver Post. The executive editor of the Post, Mr. William Hornby, is also chairman of the Freedom of Information Committee of the American Society of Newspaper Editors. I would like to express our appreciation to the officers and members of the many news media organizations who have helped spearhead the fight to preserve the public's right to know. They include the ASNE, whose president is Howard H. Hays, Jr., editor-publisher of the Riverside, Calif., Press-Enterpirse; the National Newspaper Association, its executive vice president Theodore A. Serrill and William Mullen; Sigma Delta Chi, the Society of Professional Journalists; the Radio-Television News Directors Association; and the Association of American Publishers. Other national organizations participating in the effort were Common Cause; Public Citizen; the AFL–CIO and individual unions including the United Auto Workers and the American Federation of Government Employees' Government Employment Council; the American Civil Liberties Union; and the Consumer Federation of America.

Mr. Speaker, I also include the editorial today from the Washington Post entitled "Federal Files: Freedom of Information" and other timely editorials from the Jackson, Mich., Citizen Patriot; the Des Moines Register; the Philadelphia Inquirer; the Tuscon, Ariz., Daily Star; and the Wichita Falls, Tex., Times and the Wichita Falls, Tex., Record News:

[From the Denver Post, Nov. 7, 1974]

CONGRESS MUST OVERRIDE VETO OF INFORMATION ACT CHANGES

When Congress reconvenes after the election recess, it ought to act promptly—and decisively—to override President Ford's veto of essential amendments to the Freedom of Information Act.

The amendments, embodied in the bill H.R. 12471, are designed to improve the

seven-year-old FOI law by removing bureaucratic obstacles in the way of freer public access to governmental documents.

Mr. Ford's veto of HR 12471 is in direct contradiction of his avowal of an "open administration." Further, his demands for more concessions from Congress on FOI amendments raise additional questions about the credibility of his openness pledge.

Congress has gone more than halfway to meet administration objections to the original FOI changes considered on Capitol Hill.

The House-Senate conference committee bill that emerged was a genuine compromise between congressional representatives and Justice Department experts.

Mr. Ford got four out of the five changes he recommended to the committee. Yet not only did Mr. Ford veto the final bill, but he added a new demand to his original proposals.

In his veto message, President Ford contended for the first time that lengthy investigatory records should not be disclosed on the grounds that law enforcement agencies do not have enough competent officers to study the records. He also restated his earlier demand that Congress should not give the courts as much power as the bill provides to decide on whether documents should be withheld for reasons of national security.

Mr. Ford's veto also prevented other improvements in the FOI law ranging from the setting of reasonable time limits for federal agencies to answer requests for public records to requiring agencies to file annual reports on compliance of the law.

The amendments to strengthen the FOI law represent a true consensus of Congress: HR 12471 passed the House with only two dissenting votes and there was no opposition in the Senate.

If Mr. Ford will not follow through on his open administration pledge, then Congress ought to do it for him by overriding his veto.

[From the Washington Post, Nov. 20, 1974]

FEDERAL FILES: FREEDOM OF INFORMATION

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

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

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

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

In the same veil, the Justice Department released a report earlier this week on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saxbe felt compelled, on the basis of what the Justice Department had been forced to release about the program, to order a study of what the FBI had done. Mr. Saxbe found aspects of the program abhorrent. But FBI director Clarence M. Kelley actually defended the practices of his predecessor, J. Edgar Hoover. This is a good example of how important it is that this country have a strong Freedom of Information law that will make it possible for the public to learn of such activities—and such attitudes on the part of officials in sensitive and powerful jobs—and to learn of them as quickly as possible.

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

[From the Jackson (Mich.) Citizen Patriot]

JOB NEEDS FINISHING

Issue: Should Congress override President Ford's veto of a bill amending the federal Freedom of Information Act?

Almost lost in the campaign rhetoric was the President's veto of a bill that had taken three years of cooperative work between congressmen, public groups and the press.

It would have made the federal bureaucracy more responsible for classifying documents and refusing to open them to public inspection.

In its final form, the bill, amending the 1966 Freedom of Information Act, passed the Senate by voice vote because of the minute opposition, and the House voted 349–2 in favor of it.

Back in 1966, Congress established the policy of the public's right to know what and how well government was doing.

The present bill was opposed by several federal agencies, and as a result, President Ford proposed five modifications. Congress agreed to four of them.

Then President Ford, who launched his administration with a pledge of openness in government, vetoed the measure because Congress didn't grant him the fifth requested modification.

The bill does not jeopardize national security, safeguards having been built in. It does jeopardize overzealous bureaucrats who want to operate in their own private vacuums.

At issue between the President and Congress (and the various non-governmental backers of the measure) is a provision that would allow the courts to determine reasonableness of classifications.

As written, the bill would fill a chink in the 1966 act, by allowing persons to sue, then be bound by the court's ruling. It also establishes specific time limits on both parties so that no unreasonable time period would thwart the intent of the law.

Ford's position is that the amendments to the 1966 Freedom of Information Act would compromise military and intelligence secrets and diplomatic relations while placing unrealistic burdens on various agencies by setting time limits for response to requests for data.

However, nine specific exemptions are provided. They are secret national security or foreign policy information; internal personnel practices; information specifically exempted by law; trade secrets or other confidential commercial or financial information; inter-agency or intra-agency memos; personal information; personnel or medical files; law enforcement investigatory information; information related to reports on financial institutions; geological and geophysical information.

What it boils down to is that the employes of the various federal agencies don't like opening the doors to what's going on.

The Watergate-related activities, among others, prove there is good cause to fight such an attitude.

The President seems to have dumped his open-administration policy in favor of restrictions on the public as dictated by the bureaucracy and Cabinet.

We strongly urge Congress to override the veto when it resumes business later this month. After enacting this legislation by such an overwhelming majority, it would be irresponsible for Congress to do otherwise.

[From the Des Moines Register, Nov. 5, 1974]

THIS SHOULD BE VETOPROOF

One of the first pieces of business for Congress after the election is to consider overriding President Ford's veto of the bill strengthening the Freedom of Information law. Since the House approved the bill by a vote of 349 to 2, and the Senate adopted it by voice vote with no dissent, there should be ample support for overriding the veto, whether a "veto-proof" Congress is elected or not.

All Iowa's congressmen voted for the bill, and we hope the delegation from this state will vote the same way.

The amendments are vitally needed to make the Freedom of Information law more effective and to live up to the political promises (including those of President Ford) for more open government. The ability of the Nixon administration to keep material secret during the Watergate scandal shows the importance of the reforms in the law to make information available to the public.

The most important amendment is one permitting court review of national security secrecy classifications. The law says that documents can be kept from the public if "specifically required by executive order to be kept secret in the interest of national defense or foreign policy." The U.S. Supreme Court ruled in 1973 that not even the courts could question the validity of secrecy stamps placed on government documents.

However, the court opinion invited Congress to change the law to authorize judicial review of such secrecy. Congress has now done this overwhelmingly, and President Ford has vetoed it.

President Ford evidently allowed himself to be argued into this position by the tradi-

tional secrecy hounds in the Defense Department, as well as officials in other departments who do not want the public prying into their affairs.

Other amendments in addition to the national defense item require agencies to respond more promptly to complaints filed under the act and establish formal procedures making it easier for the public to get answers to requests for documents.

President Ford's veto of this measure is indefensible and is a repudiation of his own pledge to the American people. It should be overridden decisively and promptly.

[From the Philadelphia Inquirer, Oct. 21 1974]

CONGRESS SHOULD OVERRIDE THE FORD ANTISECRECY VETO

In 1966, when both houses of Congress passed the important but limited Freedom of Information Act, virtually every department in the executive branch urged a veto. President Johnson signed it into law. Somehow, government survived.

President Ford would have done well last Thursday to have followed the example. Instead, he vetoed an immensely important, widely supported and overdue bill to extend the 1966 act. His veto should be overridden by the Senate and House as an early order of business when they reconvene Nov. 18.

Since 1966, and intensely for most of the past four years, the earnest enemies of arbitrary secrecy in government have been laboring to broaden reasonably the 1966 law. The principal opponents have been the often faceless, nameless functionaries of government who by their nature seem to find it either too troublesome or too dangerous for the people of the United States to know what business is being done on their behalf.

Watergate and all its offuscation, stonewalling and outright lying added fuel to the movement. Ultimately the Senate last June passed an amending bill by a vote of 64 to 17; the House passed a somewhat different version, 363 to 8.

Responding to pressures from executive agencies, and raising some conscientious concerns, President Ford last August submitted to the Congress written objections to the pending measure. A House-Senate conference committee made significant compromises and resolved conflicts. The conference-approved bill was passed 349 to 2 by the House and by unanimous voice vote in the Senate.

Then came Mr. Ford's veto, urged by every department of the executive branch except the Civil Service Commission and—somewhat astonishingly—the Department of Defense.

The President's veto message focused mainly on the bill's assignment to the judiciary the authority to rule on the appropriateness of secrecy classifications erected by executive agencies, and on enforcement provisions—including time limits on bureaucratic stalling and rather mild penalties for violating the law.

The same objections were raised by Mr. Ford in August. Serious attention was given them. Significant adaptations were made to avoid any possibility of excess.

We are convinced that the only real danger the final bill raised was to threaten the anonymous and arbitrary excesses of power often used by government servants to evade accountability. Mr. Ford's invocations of unconstitutionality and national security—especially in the aftermath of the Watergate experience—are not only flimsy in their logic; they are offensive in their insensitivity to public dismay.

With the Congress in adjournment, its members are at home, pursuing votes in an election year made tumultuous by the very concerns about government secrecy and unaccountability the Freedom of Information bill sought to help remedy.

Those legislators' constituents—you—would do well to demand how each of them will stand when it comes time in November to override Mr. Ford's unwise and ill-considered quashing of the public's right to know what its servants are doing in Washington's back stairs.

[From the Tucson (Ariz.) Daily Star, Oct. 27, 1974]

THE INFORMATION VETO

The President has vetoed proposed amendments to the Freedom of Information Act that would have gone far in holding accountable the headless mass of federal bureaucracy. His veto must be overridden.

The amendments would have required agencies to keep an index of the tons of information they record each year for use by the consumer-taxpayer. It would have required agencies to produce information on request by general subject matter rather than much less-accessible file numbers. It would have provided for court review of each refusal of information.

Bureaucrats would be required to report annually to Congress the number of times information was withheld, by whom and why; whether appeals were made under the act and the outcomes of those appeals. The law was specifically applied to the executive department, the Pentagon, government corporations, government-controlled corporations and independent regulatory agencies. Those individuals who withhold information without firm basis would be subject to civil service discipline.

But President Ford was persuaded by the FBI, the CIA and others that such law would dangerously inhibit them in their work. They want to be totally exempted.

In fact, the amendments provide numerous safeguards to the conduct of active police investigation, foreign intelligence and counter-intelligence. Specifically exempted was information classified for national defense, information that would foul a criminal case, deprive a defendant of fair trial, constitute an unwarranted invasion of privacy, disclose the identity of a confidential source, disclose unusual procedures and techniques or endanger the life of an officer.

If all that failed there would be the courts to make the determination behind closed doors.

The American system of government can afford no isolated enclaves of nonresponsiveness—certainly not after the revelations of the past two years that the FBI and CIA have been employed for extensive political services.

The conduct of criminal law enforcement and legitimate foreign intelligence would not be hampered by the amendments. It would make agencies like the FBI and CIA, not used to being held accountable, accountable, and that is their real objection.

[From the Wichita Falls (Tex.) Times, Oct. 31, 1974]

PRESIDENT BLOCKS RIGHT TO KNOW

Congressional improvements in the Freedom of Information (FOI) Act adopted in 1966, have been blocked with a veto by President Ford.

The Times, concerned with our readers' right to know, believes Congress should override the veto when it convenes after the election recess.

The President vetoed amendments to the FOI Act at the insistence of many federal agencies, including the Justice Department.

The measure went to the White House Oct. 7 after the House approved the conference report by the overwhelming vote of 349 to 2. The Senate had approved the conference report by voice vote Oct. 1.

The FOI amendments were approved by Congress to facilitate public access to information. The FOI Act requires the federal government and its agencies to make available to citizens, upon request, all documents and records, except those which fall into certain exempt categories.

Studies of operation of the law indicate that major problems in obtaining information are bureaucratic delay, the cost of bringing suit to force disclosure, and excessive charges levied by agencies for finding and providing requested information.

It was to correct these problems that Congress approved the 1974 amendments to the law.

The FOI amendments have been three years in development. Spokesmen for the American Society of Newspaper Editors believe every reasonable effort has been made to cooperate with governmental bureaucracy in shaping legislation where legitimate national security matters are concerned.

In ensuring a basic American right, Congress should lose no time in overriding the presidential veto when it convenes after the elections.

[From the Wichita Falls (Tex.) Record News, Nov. 6, 1974]

CITIZENS' RIGHT TO KNOW

An important question before Congress is whether or not President Ford's veto of the freedom of information amendments to the FOI Act of 1966 is to be allowed to stand. Congress will consider an attempt to override the veto after members return from the general election recess, Nov. 18.

Purpose of the amendments was to close some glaring loopholes in the 1966 law which had negated its intent. Although the amendment, H.R. 12471, passed both House and Senate with only two dissenting votes, Ford vetoed it because of disagreement with three provisions, review of classified documents, time limits and costs, and investigatory records.

The President felt the review of classified documents provisions might adversely affect national security. Of course newspapers have heard this argument before, and have seen it misapplied more often than not.

News is perishable, thus quick reaction to requests for information is essential. If enough time lapses, such as sometimes is the case under present law, the information sought becomes worthless.

Fear that compulsory disclosure of FBI and other investigatory law enforcement files will eliminate confidentiality also is an ultra-cautious approach. The White House is giving the FBI, the CIA, Department of Justice and the fears of every document classification official in Washington the benefit of doubt over the citizens' right to know.

Attitude of the federal government is personified by a White House aide's remark about the veto: "Who gives a damn except the Washington Post and New York Times whether he vetoes them?"

Well, we also care. And so should every citizen who is fed up with the secrecy with which the public's business too often is being transacted, not only in Washington, but by bureaucrats everywhere whose qualifications have never been passed on by the voters.

Major problems in obtaining information under present law of bureaucratic delay, cost of bringing suit to force disclosure and excessive charges levied by agencies for developing and providing requested information. Correction of these problems should be given top priority, not the negativism that the amendments are designed to counter.

The key to overriding the veto, which will help restore openness in our government, rests with the people. An expression of support for the amendments from individual citizens to their representatives in the U.S. House and Senate could make the difference. We suggest it of every interested person.

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

Mr. MOORHEAD of Pennsylvania. I will be happy to yield to the gentleman from New York, a former member of the subcommittee.

Mr. REID. I commend the gentleman on his statement as to the action on the conference report.

I believe very strongly that the Freedom of Information amendment bill before us is clearly a step forward. In addition to setting important time limits by which Government agencies would be required to respond to cases and lawsuits, it would authorize a court "to enjoin the agency from withholding agency records," "to determine the matter de novo," and to "examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth" later in the bill. As the bill emphasizes, "the burden is on the agency to sustain its action."

The in camera inspection provision included in this bill would overturn the 1973 Supreme Court decision, EPA against Mink, in which the court held that in-chambers inspection is ordinarily precluded under the act. Such inspection was also denied in a case in which I was involved—with Mr. Moss—relating to the Pentagon papers. In this case, Judge Gerhard Gesell of the U.S. District Court for the District of Columbia held that in camera inspection would not be appropriate. While the language added by the managers of the conference points out that this inspection procedure is discretionary and not mandatory, and that courts will "accord substantial weight to an agency's affidavit" arguing that documents may be exempt for defense or foreign policy reasons, I am hopeful that this language would be construed exceptionally narrowly. The courts, in my view, have a duty to look behind any claim of exemption, which all too often in the past has been used to cover up inefficiency or embarrassment even in foreign policy matters which, many times, are fully known by other countries but not printable in our own—supposedly the most democratic and most open in the world.

This bill also makes some important redefinitions of exemptions from the act. While in the original act, there was a blanket exemption for all national security matters, these amendments limit that exemption to those matters: First, specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and second, are in fact properly classified pursuant to such Executive order.

Finally, this bill redefines the law enforcement exemption, narrowing it significantly compared to previous law. Rather than affording all law enforcement maters a blanket exemption, this bill requires that the Government specify some harm in order to claim the exemption. When one considers that in the past the law enforcement exemption has been construed by agencies to preclude access to meat inspection reports, OHSA safety reports, airline safety analyses and reports on medical care in federally supported nursing homes, one can easily see the need for plugging the loophole in the old law.

The gentleman in the well and I both, I think, would have liked to see it stronger in some of the criteria, particularly as concerns what constitutes national security, which is frequently used to bar the door to information. But sometimes I believe in clear violation of the Constitution. I believe the steps narrowing the criteria in section 552 which sets forth the requirement for prompt consideration by the courts of what constitutes appropriate action within the meaning of the Executive order and the criteria of the Executive order are precisely the kind of accountability that the American people must have if we are to have freedom of information, both for the public, the press and the Congress.

I think an override is an essential first step to make further progress in this area, and I think the arguments presented in the conference report are clear and overwhelming.

Mr. Speaker, I hope and urge that the veto will be overridden.

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

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I commend the gentleman from Pennsylvania for bringing this matter to the floor today.

I strongly support the public's right to know about their Federal Government and, therefore, I am voting today to override President Ford's veto of the freedom of information bill—H.R. 12471.

The arguments for overriding this veto are well set forth in the following editorial from the Seattle Post Intelligencer:

CONGRESS MUST GUARANTEE PUBLIC'S RIGHT TO KNOW

One of the vital issues facing Congress when it returns from the election recess will be President Ford's veto of the 1974 Freedom of Information Act.

Congressmen should override the President's veto of the measure—designed to make it easier for citizens to gain access to federal documents.

The 1974 version of the act would close loopholes in the 1966 Freedom of Information Act that have frustrated the public's right to know. The new act would shift the burden of proof from individuals seeking information to those agencies denying access to federal documents.

Under the present act, information often has been withheld simply because it might serve to embarrass an agency or cause a bit of effort by government employes. Individuals have had to go to court to obtain federal documents.

A dramatic example of why the new act is needed was provided last week with the end of a local couple's five-year struggle to see Internal Revenue Department tax audit records.

Philip and Sue Long of Bellevue finally secured access to the records after spending $20,000 of their own money in the quest for IRS tax information.

It is the first time that this information has been made available to the public, the press or even Congress.

The new Freedom of Information Act would reduce the leeway of law-enforcement agencies to withhold information for "confidential" reasons and shorten by a few days the amount of time an agency has to comply with a request. It would also permit the Civil Service Commission to discipline bureaucrats if the courts find that they have "arbitrarily or capriciously" withheld information.

During the House debate on the 1974 bill, Rep. Bill Alexander, Arkansas Democrat, said he had been unsuccessful last year when he tried to find out how much wheat subsidy had been paid to grain exporters for their sales to the Soviet Union.

Alexander concluded: "If I, as a member of Congress, become frustrated when I am denied access to information vital to the public welfare, what about John Q. Citizen and his efforts to get the information he needs?"

What about John Q. Public indeed?

When President Ford took office in August, he declared his administration would be an "open" one. Despite that promise, he has taken a step backward in vetoing the Freedom of Information Act.

Congress should act promptly to re-affirm the public's right to know what its government is doing.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I now yield 5 minutes to the ranking member of the subcommittee, the distinguished gentleman from Illinois (Mr. ERLENBORN).

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Speaker, I rise in support of the motion to override the veto of the amendments to the Freedom of Information Act.

Mr. Speaker, the original Freedom of Information Act was a bipartisan effort. It originated in this House in the first term during which I served in Congress.

One of the Republican cosponsors of that effort was my colleague, the gentleman from Illinois, Don Rumsfeld, who now serves President Ford in the White House.

The bill before us is also the result of a bipartisan effort in our Subcommittee on Foreign Operations and Government Information of the Government Operations Committee. We started out with the same goals in mind, with some divergent opinions, and in our subcommittee, I think in the best tradition of bipartisanship, we resolved what differences we did have, and came to the floor with a bill that was very substantially supported by this House.

President Ford had his first opportunity to have input as President on this bill when it was in conference, and he did make his views known to the conferees. I think in great measure the conferees responded to the concerns that President Ford articulated to us, and when we then brought the effort of the conference committee to the floor it was supported overwhelmingly.

I believe the concerns that the President states in his veto message are not sufficient to warrant the support of this veto.

I would like to address myself to those concerns that the President enumerated in his veto message. The first has to do with the section of the bill that clearly reverses the Supreme Court decision in the case of EUA against Mink. That decision held that there was no authority under the act to look behind the stamp of classification in a document that was classified. We clearly intend to overturn

that decision. The question that arises is what weight of evidence must there be for the court to find that a document has been improperly classified. We do not spell out in the conference report a particular rule of weight of evidence, but I think the normal rule in civil cases or preponderance would apply. The President asks that the classification be supported, and the court not have authority to overturn it if there is any reasonable basis to support the classification. He uses an argument a corollary of the decisions coming from regulatory agencies. I do not believe that the corollary is apt. The decisions of regulatory agencies are reached ordinarily as a result of adversary proceedings, public proceedings, and the making of a record.

The decisions whether to classify a document are made usually on an arbitrary basis of some employee of the executive branch, deciding whether or not the document falls within the system of classification as outlined in the Executive order. Therefore, I think that the weight of the evidence or the preponderance of the evidence is the proper test.

Second, the President would have longer time limits for response.

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

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I thank the gentleman for yielding to me. This is on the first point the gentleman made:

One of the points, as I read the President's veto message, and the explanation which was given, was that there might be instances in which they did not want to produce sensitive documents with regard to the in camera inspection so that the document would not be presented to the court. We did try to cover that situation in the language of the conference report, and I thought it might be appropriate to put on the record what we said in the conference report:

However, the conferees recognize that the Executive departments responsible for national defense and foreign policy matters have unique insights into what adverse affects might occur as a result of public disclosure of a particular classified record. Accordingly, the conferees expect that Federal courts, in making *de novo* determinations in section 552(b)(1) cases under the Freedom of Information law, will accord substantial weight to an agency's affidavit concerning the details of the classified status of the disputed record.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker. I yield 2 additional minutes to the gentleman from Illinois.

Mr. ERLENBORN. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman for yielding.

In other words, we did make it possible that the court would not have to have the document, and we indicated that it would not necessarily have to have the document produced and that it could be determined on affidavit.

Mr. ERLENBORN. The gentleman is correct, and I think that we made it clear. We anticipated the court would give great weight to the affidavit, coming from the executive branch, and would not in most cases even view the document but only if the court felt it was necessary to do so in camera.

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

Mr. ERLENBORN. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, I am compelled to stand and speak for this bill, despite the veto by my President.

The issues in this legislation go far beyond whether we will have "openness and candor" in this particular administration. This is a struggle over constitutional interpretation. How the Congress decides the fate of this bill shall have a grave effect upon the interpretation of the first amendment and the people's right of access to their Government.

A century ago, the British Prime Minister, Benjamin Disraeli, said:

From the people and for the people, all springs and all must exist.

A decade later, President Lincoln wrote that we have a—

Government of the people, by the pepole and for the people.

This quotation states the essence of our democracy and our freedoms. We cannot take them for granted. They can perish if the Government is allowed to become a separate and independent entity from the people.

The bill that has been returned to this House, the Freedom of Information Act amendments, embodies the spirit of "government of the people, by the people, and for the people." These amendments provide greater access to Government records. They provide a mechanism for tearing away some of the layers of official secrecy without endangering our national security.

This bill has come before this House twice before and passed by overwhelming margins. On March 14, the House passed this bill on a vote of 383 to 8. Then last month, on October 7, the House adopted the conference report on a vote of 349 to 2.

The purpose of the Freedom of Information Act amendments is to strengthen the public's right to know what its Government is doing. When this right to know is bolstered, democracy will work better. This is an objective that all Members of Congress support overwhelmingly.

Mr. Speaker, the value of the Freedom of Information Act has been demonstrated time and time again since it was enacted in 1966. Recently, it was instrumental in exposing some dubious, if not illegal, activities by the Internal Revenue Service and the Federal Bureau of Investigation. The Washington Post ran an incisive editorial on the act in this morning's edition, which I submit for the RECORD. It explains clearly why my colleagues should pass this bill over the veto of the President. The article follows:

[From the Washington Post, Nov. 20, 1974]

FEDERAL FILES: FREEDOM OF INFORMATION

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

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

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

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

In the same vein, the Justice Department released a report earlier this week on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saxbe felt compelled, on the basis of what the Justice Department had been forced to release about the program, to order a study of what the FBI had done. Mr. Saxbe found aspects of the program abhorrent. But FBI director Clarence M. Kelley actually defended the practices of his predecessor, J. Edgar Hoover. This is a good example of how important it is that this country have a strong Freedom of Information law that will make it possible for the public to learn of such activities—and such attitudes on the part of officials in sensitive and powerful jobs—and to learn of them as quickly as possible.

The Freedom of Information Act is not a law to make the task of journalists easier or the profits of news organizations greater. It is, in other words, not special interest legislation in the sense that the term is ordinarily used. It is special interest legislation in that it is intended to assist the very special interest of the American people in being informed about the processes and practices of their government. This is a point President Ford's advisers missed badly at the time of the veto. One of them is alleged to have

said that if the President vetoed the bill, "who gives a damn besides The Washington Post and the New York Times?" The truth of the matter is that this legislation goes to the heart of what a free society is about. When agencies of government such as the FBI and IRS can engage in the kind of activity just revealed, it is serious business. That's why we should all give a damn—especially those who are to cast their votes today and tomorrow.

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

Mr. ERLENBORN. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 12471 consisting of amendments designed to improve the Freedom of Information Act and urge my colleagues to do the same.

As you know, one of the amendments would permit Federal judges to make an in camera examination of classified documents to determine whether they had been properly classified. The author of the Freedom of Information Act, the gentleman from California (Mr. Moss), has stated that was the original intention of the act when it was passed 8 years ago during the Johnson administration. But the courts said the issue was not that clear.

Although a Federal agency's affidavit that a document is properly classified should be given due consideration by the courts, that assertion simply cannot be and should not be the final word in the matter. We should remember that a number of the "political enemies" documents in the Watergate investigation carried false classification labels based on national security.

The abuse of classification labels by any administration should be open to challenge. It does not require an oracle to know when something does not meet specific classification requirements. You do not have to be a chicken to know when an egg is bad and that is what we are talking about. I have faith that in genuinely gray areas, Federal judges will tend to rule in favor of national security. But when something clearly does not meet the test, it is going to come out. And it should for the sake of good Government. That sort of thing helps the American people make an informed judgment on whether its governmental leaders are doing a good or bad job.

Mr. Speaker, I include the following editorial on this subject from the Detroit Free Press:

FORD LAPSES ON PROMISE TO OPEN UP GOVERNMENT

In light of the new era of openness President Ford has pledged to bring to the federal bureaucracy in Washington, his recent veto of changes in the Freedom of Information Act was unfortunate and misguided.

The act was passed in 1966, and was designed to make it easier, not harder, for the public to know what its government was doing. The law, however, contained numerous loopholes which have allowed insensitive federal agencies to continue the aura of secrecy which for far too long has permeated government thinking.

The new amendments to the act were designed to eliminate some of the key loopholes, and were passed overwhelmingly by both houses of Congress.

The amendments would put a time limit of 10 working days on a federal agency to decide whether it would honor a request to make information public, and 20 working days to decide appeals when access to information is denied. These are not unreasonable limits, and they would force agencies to come to grips with the public's right to know, instead of indulging in bureaucratic foot-dragging. Another amendment called for judicial review of classified national security information, if its release is sought, before it could be withheld.

Within the government, opposition to the amendments has come mainly from officials connected with foreign policy and national defense policy. It was on their objections that President Ford apparently acted in announcing his veto.

The president said he would submit proposals of his own to Congress. We hope he will do so, and soon, for there are good reasons otherwise why Congress should try to override this veto. While it is true that newsmen and newswomen are among those who have been pressing for passage of the amendments, all of the public has a stake in them.

Over the last decade, we have seen the fruits of governmental secrecy—in the conduct of the war in Vietnam, the decisions that led to and increased American involvement there, in the secret decisions to bomb Cambodia, and in the aftermath of the Watergate scandals. What all of these events have shown is that government governs worst when it does not trust the people, and is unwilling to tell the people what it is doing. That is why the public should support efforts to strengthen the Freedom of Information Act, and why President Ford is wrong to veto such efforts.

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

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, I will vote to override the President's veto of H.R. 12471, the Freedom of Information Act Amendments of 1974.

In vetoing this legislation, the President cited three reasons:

First. The legislation would authorize a Federal judge to examine agency records privately to determine whether these records can be properly withheld under the Freedom of Information Act, and that this provision could endanger our diplomatic relations and our military and intelligence secrets;

Second. The bill would permit access to additional law enforcement investigatory files; and

Third. The President believes that the time limits for agencies to respond to requests for information—10 days on furnishing the document, and 20 days for determinations on appeal—to be unreasonable.

During the debate on the House floor on October 7 on the conference report on H.R. 12471, the first two points which the President used as reasons for the veto were specifically discussed in an exchange between Congressmen HORTON and MOORHEAD of Pennsylvania, both of whom serve in ranking positions on the House Government Operations Committee, the committee which had jurisdiction over this legislation. During this exchange, it was brought out that the "judge would have to decide whether the document met the criteria of the President's order of classification—not whether he himself would have classified the document in accordance with his own ideas of what should be kept secret," and that before the Court orders an in camera inspection, the Government would be given the opportunity to establish in testimony and detailed affidavits that the documents in question are exempt from disclosure. The conference report clearly states that an in camera investigation would not be automatic.

With regards to exempting national security and law enforcement investigatory information, the conference language is very specific on this issue. The legislation protects materials which have been—

(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

* * * * *

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a crimial investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;"

It is my view that this legislation is necessary in order to give the citizens of this Nation access to their Government—a Government which was created to serve them, and which they support through their tax dollars. Although I respect the President's position and his willingness to approve similar legislation once it has been amended as he suggests, I cannot in this instance agree with him. I believe that this bill does protect those lawful sensitive areas of Government, and I think that the time allowed for agencies to respond to citizen's requests for information—10 days for agencies to respond to a request, with provisions for an additional 10-day extension under "unusual circumstances," and 20 days for agencies to respond to appeals—is reasonable.

I urge my colleagues to join with me in continuing to support this legislation.

Mr. ERLENBORN. Mr. Speaker, I want to make the second two points. Under the bill before us the time limits for response to a request are reduced to 10 working days for the original response, 20 working days for an administrative appeal, and then 10 additional days' extension in cases where there are particular difficulties. This would be a total of 40 working days or a total of 8 weeks. I think that is long enough.

The President suggests in his veto message and the amendments he sent here to the House 30 days, plus 15 for extension, plus 20 for the administrative appeal. That would be 65 working days or 13 weeks before a final decision would be made. I think that is an unreasonable delay. In either event, whether it be

under the proposal of the President or in the bill, there is the opportunity for court intervention to give additional time in cases where there are particular difficulties.

Lastly, on the question of opening up investigatory records, at the present time under the law all investigatory files are exempt, and we found that there have been abuses in this regard. Under the bill we would open up nonexempt records that are within exempt files. I think that there are reasonable safeguards in the bill, and I hope that the veto will be overridden.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 5 minutes to the distinguished author of the original bill, the gentleman from California (Mr. Moss).

(Mr. MOSS asked and was given permission to revise and extend his remarks.)

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

Mr. MOSS. I yield to the gentleman from Wisconsin.

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Speaker, we vote today on a bill which would put an end to 7 years of brueaucratic foot-dragging and guarantee the openness in Government which the original Freedom of Information Act was designed to promote.

The overwhelming margin by which this House passed H.R. 12471 when it was first before us testifies to the broad support which these goals command.

But the President has chosen to veto this bill. He returns it to us with his reasons for refusing to sign it. Our job is to consider whether those reasons are cogent.

First, he argues that the provisions of the act with respect to classified material would compromise national security, because no presumption of reasonableness is created for an administrative classification. The language of the veto message suggests that the provisions of H.R. 12471 are dangerous innovations, that they would "violate constitutional principles."

Yet there is nothing unprecedented in this bill. It merely treats challenges to classification under the Freedom of Information Act as those challenges are treated when suit is filed on other grounds.

Why should the courts presume that an administrative classification is reasonable? Surely we are familiar by now with the extent to which any document tending to embarrass any agency tends to become an instant top secret. I am often reminded of the Russian story about the man sentenced to 23 years in prison for saying "Brezhnev is a fool": 3 years for insulting the party secretary, and 20 for revealing a state secret.

No, by their own actions the managers of those classification stamps have forfeited any presumption that their actions are reasonable. Let the courts decide.

The second objection raised in the veto message is simply a matter of administrative convenience. It is claimed that too great a burden is placed on the bureaucracy to act quickly and to demonstrate document by document that there is a need for secrecy. If the agencies had a history of cooperation with the spirit of freedom of information, if we did not have before us their history of stubborn, protracted, trench warfare, yielding nothing except under compulsion, then these arguments might carry some weight. But the record being the record, I cannot work up any great degree of sympathy for the administration's position. The President would have us build in loopholes for the agencies to snipe through. I see no reason to do so.

This bill, as we passed it before, is a major advance. I hope my colleagues support overriding the President's veto.

(Mr. ASPIN asked and was given permission to revise and extend his remarks.)

Mr. MOSS. Mr. Speaker, this legislation deserves to be finally enacted by the overriding, in this instance, of an ill-advised Presidential veto. I think that the advice upon which President Ford acted in vetoing this bill came in many instances from the same top and middle echelons in the Government, the same group of people who so vigorously urged the late President Lyndon Johnson to veto the original legislation.

In drafting the original legislation, there were many compromises made which, in my judgment, should not have been made, but they made it possible to accomplish something toward opening the Government wider to the American people. After all, it is their Government, not only their Government, but they are the ultimate governors of this Nation, and that they have in the final analysis the greatest need for information.

The bill upon which we are voting today, the matter of overriding the veto, represents compromise in the finest tradition, compromise of the views of the Congress, and it should have been the views of the Executive, because they were carefully considered. I know that I personally agreed to modification of positions that I had carefully thought through in an effort to go more than half way toward meeting the objections of the Executive. I think every legitimate objection that could have been supported has been met in the bill before us.

I think it is the minimum that we should do as a Congress to insure more openness in Government.

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

Mr. MOSS. I yield to my friend, the gentleman from New York (Mr. Reid), who worked so hard on the original Freedom of Information Act.

Mr. REID. Mr. Speaker, I thank the chairman for yielding.

As coauthor of the original Freedom of Information Act along with the chairman, I share his view. I would like merely to make one point and ask a question.

First I share the gentleman's concern about what constitutes executive privilege, and to the extent it does exist it should be construed extraordinarily narrowly in my judgment. I hold that it does not, for instance, extend to foreign policy or national security information which is essential to the legislative and oversight purposes of the Congress under the Constitution.

But my question goes beyond that to the experience the gentleman and I had with respect to the Pentagon papers and I believe Judge Gesell. By the time the court acted, the Pentagon and Secretary Laird had declassified about 80 percent of the papers; the court at that time in their opinion held they could not then look behind the Government's judgment—determined by the then Pentagon attorney Fred Buzhardt—on the remaining 20 percent.

So, when the gentleman in the well says we are dealing here with a very minimum somewhat more stringent standard and much prompter action by the court, we nonetheless are dealing with an area which is still very, very broad. I personally think well over 90 percent, perhaps 98 percent of the Pentagon papers could have been declassified at that time. And unless the courts can act to hold some kind of accountability in this kind of determination, then our Republic lacks defenses for the right of the people to know that which it is imperative for us to know.

Mr. MOSS. I thank the gentleman.

I am not going to take further time other than to urge that we send a loud and strong and clear message downtown: This is the people's business. This must be public and this Congress insists that it be public to the extent provided by this series of amendments.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 5 minutes for the purpose of debate to the ranking minority member of the Government Operations Committee, the distinguished gentleman from New York (Mr. Horton), who has helped so much in the construction of this legislation.

(Mr. HORTON asked and was given permission to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, I rise in strong support of overriding the President's veto of H.R. 12471, the Freedom of Information Act Amendments of 1974.

This bill is the result of long, careful, and reasonable consideration by the Committee on Government Operations, on which I am proud to serve as ranking minority member. The committee began its review of the Freedom of Information Act in this Congress with two bills, one principally sponsored by the gentleman from Pennsylvania (Mr. Moorhead) and one principally sponsored by myself in which I was joined by the gentleman from Illinois (Mr. Erlenborn) as a cosponsor. After hearing the views of many individuals—including several representatives of executive branch agencies—we recommended to the House a measure which combined the best features of both bills. I am pleased that this product passed the House by a vote of 383 to 8. The conference report, which does not differ greatly from the House bill, pased by an equally impressive margin—349 to 2.

I was disappointed that the President vetoed this bipartisan legislation.

Mr. Ford has found three parts of H.R. 12471 objectionable.

First, he says in his veto message that

courts should not have authority to review "reasonable" decisions by executive agencies as to what information should be clasified for reasons of national security. In asking us to revise the pertinent section of our bill, however, he explicitly reserves to judges the right to determine which decisions are "reasonable" and which are not. Under Mr. Ford's proposal, then, judges themselves would still be able to decide when they would view classified documents in chambers and when they would not. Mr. Speaker, that is what H.R. 12471 does. The President's proposed language makes no real change in this part of the bill. Objection No. 1 is, very frankly, without substance.

Second, the President says that the time limits we have prescribed for agencies to respond to public requests for information are too short. Agencies need more time, according to Mr. Ford—65 days instead of 40. Mr. Speaker, I think we should ask here exactly what actions are required within these time limits. The bill does not stipulate that agencies physicaly produce all requested documents within these periods. It does not even stipulate that agencies say within the time periods which specific documents of the ones requested will be produced. It merely states that officials of the executive branch tell requestors within certain amounts of time whether their inquiries will be complied with or not. Again, the conference report makes this clear. It also states quite clearly that further action shall occur promptly—it does not use the word "immediately." Mr. Speaker, this does not seem an onerous requirement to me. Its effect would be to demand of executive officials that they process information requests quickly, not that they disrupt their activities to fulfill their requests. To my mind, objection No. 2 is also without merit.

Third, the President says that the bill places unreasonable demands on law enforcement agencies and should be amended to provide that the heads of such agencies need not comply with the law when doing so would be difficult. Mr. Speaker, this proposal is extraordinary. It just does not make sense as a matter of public policy. Suppose we enacted a law that people need not pay income taxes whenever completing an income tax form would be difficult. Of course that would be absurd. What we have been asked to do here is similar in concept, and it is equally nonsensical. The real problem, as I understand, is that searching through records in response to some requests may be time consuming and expensive for law enforcement agencies. As I explained in detail during the original debate on the conference report, under H.R. 12471, agencies could charge members of the public the actual cost of these searches through records. So objection No. 3 is without merit as well.

Mr. Speaker, we have an opportunity now to strike a blow for the public's right to know what its Government is doing. I urge all Members to join with me in striking that blow by voting to override the President's veto of H.R. 12471.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I now yield 3 minutes to the gentleman from Arkansas (Mr. ALEXANDER), a very able member of the subcommittee.

Mr. ALEXANDER. Mr. Speaker, President Ford's surprising veto of the amendments to the Freedom of Information Act passed by Congress last month makes a mockery of his promise of "open government."

Like patriotism being the "last refuge of scoundrels," Mr. Speaker, the withholding of information from the public is the "last refuge" of the bureaucrat. Have we not had enough of Government secrecy just for the sake of hiding mistakes, political embarrassment, or covering up criminal behavior?

Have the bureaucrats not learned anything from the Watergate scandal?

Has the White House not learned that Government secrecy is the real enemy of democracy?

Our subcommittee worked long and hard for more than 3 years to produce a workable, enforceable, and effective series of amendments to make the Freedom of Information Act more viable.

The bill, with bipartisan support, was unanimously reported by the full Government Operations Committee. This body passed H.R. 12471 last March by a vote of 383 to 8. It was likewise passed in the Senate in May by a one-sided vote.

Mr. Speaker, as a member of the conference committee, I can assure our colleagues that we afforded every possible consideration to the concerns expressed by the President about certain provisions of the bill.

We made a number of significant changes in the language of the bill to help meet the objections of his advisers.

We had every assurance that these changes would make it possible for him to sign the bill into law promptly.

But the executive bureaucrats who had fought H.R. 12471 were successful in persuading him to veto it and it is now our clear responsibility to override that unwise and unwarranted veto.

I urge an overwhelming "aye" vote to restore credibility to our governmental processes and preserve the public's right to know.

Mr. TIERNAN. Mr. Speaker. I rise in support of H.R. 12471, the Freedom of Information Amendments Act, the President's veto notwithstanding. If there was ever a time in our National Government's history for candor and truth that time is now. I regret very much that President Ford accepted the bad advice to veto this legislation. It does not wash with his goal of an "open" administration.

The right of the public to know what their Government is doing was never so much needed as it is today. A recent editorial in the Providence Evening Bulletin speaks to the issue when it said:

If Congress meant what it seemed to say in overwhelmingly supporting these amendments, one of the first orders of business when it reconvenes after the elections will be a vote to override and a clear message to the White House that Americans are demanding the kind of open administration that Mr. Ford in his inaugural address promised to maintain.

Mr. Speaker, without objection I include this editorial of October 21 as part of my remarks:

[From the Providence Bulletin, Oct. 21, 1974]

INFORMATION FREEDOM

There were no ruffles and flourishes when President Ford vetoed the Freedom of Information Act Amendments last week. As quietly as possible the press was informed late Thursday afternoon that the President considered the legislation "unconstitutional and unworkable" although he said it had "laudable goals."

Ironically, the Senate-House conference committee, which labored four months over a compromise measure, had altered various provisions in an effort to satisfy White House reservations expressed soon after Mr. Ford took office. When the final version was completed, Mr. Ford took no position and it was approved—by voice vote in the Senate and 349 to 2 in the House.

Ironically, the President's most serious objection is to a provision authorizing the courts to review secret government information to determine whether it had been properly classified. Mr. Ford said this would permit the courts to make what amounts to "the initial classification decision in sensitive and complex areas where they have no expertise." An important point he failed to acknowledge, however, is that the courts now have this authority in criminal cases.

Other objections cited in the veto message include these provisions: 1. giving the courts discretionary authority to grant court costs and attorneys' fees to successful petitioners; 2. establishing a procedure for disciplinary action when a court found that a federal employe had acted capriciously or arbitrarily in withholding information; and 3. setting time limits of 10 working days for an agency to respond to a request for information, 20 days to answer an appeal from an initial request; and 30 days to respond to a complaint filed in court under the act—limits we view as eminently reasonable.

In vetoing the amendments, President Ford has given in to pressure from executive agencies whose opposition may be understandable in terms of bureaucratic convenience but is wholly without merit in terms of open government and the public's right to know.

If Congress meant what it seemed to say in overwhelmingly supporting these amendments, one of the first orders of business when it reconvenes after the elections will be a vote to override and a clear message to the White House that Americans are demanding the kind of open administration that Mr. Ford in his inaugural address promised to maintain.

Mr. WHALEN. Mr. Speaker, we assemble here in the aftermath of an election in which only 38 percent of the American people participated. It was the lowest voter turnout in more than a quarter century.

That is troubling news, because it appears to confirm the contention that we now face the most serious problem that can arise in a democracy: The people are alienated from their Government. Millions of Americans believe that the "government of the people" has become a government very separate from the people.

And no wonder. The Watergate scandal confirmed the worst suspicions about secrecy, deception, and Government officials' contempt for the American citizen.

Fortunately, the Constitution authored nearly two centuries ago was resilient enough in 1974 to enable us to survive Watergate. Our task now, however, is to

revive the confidence of the people in their government by insuring that Government is responsive to the people.

The fact is that many agencies of Government are not open. Too often the public interest is subservient to the institutional interest. Secrecy prevails.

In 1966, Congress enacted the Freedom of Information Act so that the public could obtain information about the policies being formulated and the tax dollars being spent by government departments. The act was a vital first step, but its usefulness has been limited because officials have devised ways to impede public inquiry into the public's business. For instance, documents simply are stamped "secret." Or citizens are told that there will be indefinite delays. Or individuals are charged exorbitant prices for obtaining copies of documents.

Now, however, after 3 years of bipartisan effort, 17 amendments to the act have been passed by the House and the Senate by overwhelming margins. Apparently accepting the advice of the Government agencies who opposed the act in 1966, President Ford vetoed the Freedom of Information Act amendments.

In my view, it is imperative that the representatives of the people override the veto and enact these amendments into law. If we sanction continued government secrecy by sustaining the veto, we will damage—perhaps irrevocably—efforts to revitalize government and return it to the people.

The amendments require Government agencies to maintain an index of documents so that citizens can know where to look for information. A time limit for agency response is established to eliminate bureaucratic foot-dragging. Excessive charges will be prohibited—the Government will be able to charge only what it costs to provide requested material. The "secret stamp" cannot be used to shield material that need not be secret, since the amendments provide for court review of classified documents. The amendments also require that the Civil Service Commission initiate proceedings to determine if disciplinary action is warranted in cases where a court finds that an official acted "arbitrarily or capriciously" in denying information.

This carefully drafted legislation exempts materials that must be kept private, including medical reports, trade secrets, and legitimate national defense information.

The years that have elapsed since the original Freedom of Information Act was passed are replete with the tragic evidence of the consequences of secrecy in Government. If the spirit of the law had been alive during the past 8 years, we might have been spared the agonies of Vietnam and Watergate. The spirit of the law has not been sufficient, however, to penetrate a detached Government bureaucracy.

Thus, the letter of the law must be strengthend. These amendments do just that. When the amendments are enacted into law, the people who want to participate will have the law on their side.

Mr. DENT. Mr. Speaker, ff I had not already made up my mind to vote to override President Ford's unwarranted veto of the Freedom of Information Act, I would certainly have been influenced by the editorial which appeared in the Valley Independent of Monessen, Pa. It is a short editorial but very much to the point and I recommend its reading to my colleagues. The editorial follows:

MORE INFORMATION

Soon after the Freedom of Information Act took effect in 1967 it became evident that the law did not guarantee quite as much public access to government documents as had been expected. It is gratifying that Congress has at last completed work on revisions designed to strengthen access.

The law is basically a good one. In general it permits access to information from federal agencies, and also provides the machinery for court appeal of official decisions to withhold data. Exceptions are made in certain areas—trade secrets, investigatory records of law enforcement agencies, and so on.

Problems arose from the start, however. About three years ago Congress began the task of improving the Act. Matters were complicated by a Supreme Court ruling in 1973 which allows the president to screen documents from judicial review.

This ruling will in effect be overturned by the new legislation. It authorizes federal courts to make a determination as to whether a secrecy stamp on any given piece of information is actually justifiable under terms of the law. Nor will the courts have unbridled discretion in classifying questioned documents. They will be obliged to decide whether the criteria of an executive order for classification are met by a document.

All this is in aid of the people's right to know what their government is up to. Let us hope that President Ford, whose earlier objections have largely been met by congressional compromise, will sign the bill.

The past 2 years have done anything but win the confidence of the American people for an unquestioned support of our system, especially in the area of the accessibility of information regarding actions of the Government. It is discouraging to report to the Congress that, to the best of my knowledge, there is not one agency of Government that can give you an accurate and, an honest answer to inquiries pertaining, for example, to imports and exports in such a way that the average American citizen can understand them.

Is it not curious that when this great Republic was founded, it was founded upon the intentions of people who were tired of hearing nothing from Mother England save dictums as to how to conduct their affairs and where they were to send their taxes. Nearly 200 years later we hear again of the distrust and disgust of the people with their Government, precisely because they feel, in large part, that some great, secret machinery is operating in Washington, D.C., and they have very little access to its inner workings.

You know, a machine can be a very ominous, frightening thing. Our form of government was not meant to be ominous or frightening, and yet in various ways the public is confronted with the closed door, the closed envelope, and the closed file in attempting to deal with the workings of our federal system.

We have gone through a frightening period in this last summer, a chain of events that should have effectively pointed out the dangers of secrecy in government. The "imperial Presidency" of Richard Nixon is over, halted by vigilance, and yet we may be now in danger of perpetuating the attitudes of the Nixon administration if we should allow the Ford veto to stand on the Freedom of Information Act amendments.

I voted for Congressman Gerald Ford's selection to the Vice Presidency of the United States. If I had the opportunity, I would vote to make him a Member of Congress again because in that position he could not do as much harm as he has done in his short stint in the White House. He takes the easy way out by continuing to criticize Congress for anything and everything, yet he knows that between his use of the Presidential veto pewer, and the inherent rules and criteria-making powers of the bureaus and departments of the executive branch, Congress has become the fifth wheel on a hearse.

For instance, I have just been informed that the Labor Department is interpreting the recently highly acclaimed Pension Reform Act of this Congress in such a manner that any resemblance between the intent of Congress and the rules and criteria that they are promulgating is strictly accidental. And this has become true in nearly every area of legislative enactment.

Particularly is this true in the enactment of the so-called Kennedy round of trade agreements. It has been administered without regard of any kind to the intent, or the goals, or the letter of the law. The present administration of the Kennedy round, although perhaps well intended, seems now to be aimed at the destruction of American international trade, rather than to keep the promise made by that act that it would create jobs in America, support prosperity in America, and above all, bring peace to the world.

This morning, within a 2-hour span of having breakfast and answering mail, I watched at least three TV stations, and their various news presentations and I believe now that I can recite President Ford's toast to the Emperor of Japan, verbatim. However, I did not hear more than a single line about the Chrysler Corp. starting a massive layoff, shutting down production in several more plants; about Greyhound Bus Lines going on strike and stranding thousands of travelers; about the coal miners' dissatisfaction with what their president, Arnold Miller, called a reasonable and good contract; about Bethlehem Steel threatening to close down part of its operation permanently.

While I sat and contemplated the great damage these various economic upheavals could do in the next month, the President was promising the Japanese a continuance of the policies we have followed in regard to Japan. Mr. Ford's "openness" was bright and shining in his pronouncements to the Japanese, even in the light of his veto of this bill, a veto which will effectively maintain a "closedness" here at home.

I will venture to say that there are Arab leaders who have better access to information concerning trade, arms and energy in the United States than do most of the American people. And this has all come about at the behest of that inveterate globetrotter Dr. Henry Kis-

singer, whose "openness" with the Arabs we do not need, but who obviously was holding something from us in the Chilean upheaval.

There just may be a few dozen Arab sheiks in the Middle East who know more about the United States than we in Congress know and the only way we are going to improve the situation is to override this veto.

I opened by quoting the concerns of one of my local papers. I might effectively close by quoting from this morning's Washington Post:

FEDERAL FILES: FREEDOM OF INFORMATION

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

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

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

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

In the same vein, the Justice Department released a report earlier this week on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saxbe felt compelled, on the basis of what the Justice Department had been forced to release about the program, to order a study of what the FBI had done. Mr. Saxbe found aspects of the program abhorrent. But FBI director Clarence M. Kelley actually defended the practices of his predecessor, J. Edgar Hoover. This is a good example of how important it is that this country have a strong Freedom of Information law that will make it possible for the public to learn of such activities—and such attitudes on the part of officials in sensitive and powerful jobs—and to learn of them as quickly as possible.

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

Mr. UDALL. Mr. Speaker, at the time of the President's veto of H.R. 12471, the freedom of information bill, I thought that action to have been ill-timed to an extreme and contrary to his pledge to "go more than halfway" to meet the Congress efforts to pass this important legislation.

Mr. Speaker, the President again raised the specter of abuse of national defense secrets in his veto message. If there is a more transparent and bedraggled banner to wave in this post-Watergate era, it is the one bearing national security as a shield against the public's right to know.

The committee working on this legislation labored for more than 3 years to come up with a bill that provided necessary security safeguards, but provided improved public access to Government information.

It is a vital bill at a vital time. The public is skeptical of its Government. It is suspicious of the security agencies and the repositories of such information as tax records. The public is questioning the candor of such agencies as the Atomic Energy Commission and the Food and Drug Administration and whether or not these agencies are telling all the facts about the water we drink, the food we eat, and the safety of use of nuclear energy for power production.

Mr. Speaker, the President's veto of the amendments to the Freedom of Information Act ought to be overridden for at least two very basic reasons: First, it eases public access by requiring the agencies to be more accountable to the Congress and gives the people new opportunities to force disclosure of information not classified and not vital to the Nation's security; and second, enactment of this bill at this time will serve notice to the people of this Nation that we have learned at least one lesson from Watergate, that the old politics of supersecrecy and basic suspicion have been replaced by candor and openness.

Mr. Speaker, a recent editorial in the Arizona Daily Star of Tucson, Ariz., called for override of the President's veto.

In that editorial, the Star stated:

The American system of government can afford no isolated enclaves of nonresponsiveness—certainly not after the revelations of the past two years that the FBI and CIA have been employed for extensive political services.

Mr. Speaker, I can only add my full concurrence with those sentiments and I rise in support of the resolution to override.

Ms. ABZUG. Mr. Speaker, when President Ford took office he promised the Nation more openness and candor in government. Since then he has taken some actions which have raised serious doubts about his commitment to a more open government. The most recent such action was the ill-advised veto of H.R. 12471, the Freedom of Information Act amendments. The veto of this legislation was clearly contrary to the public interest. In my view, H.R. 12471 would make a number of responsible and highly desirable changes in the Freedom of Information Act—changes which would greatly improve the access of the American people to the business of government. It would shift the burden of proof from individuals seeking information to those agencies denying access to Federal documents; it would permit the Civil Service Commission to discipline bureaucrats, if the courts find that they have "arbitrarily or capriciously" withheld information; it would allow courts to review classified documents and classification procedures; and it would also shorten the length of time an agency has to comply with a request. In short, the amendments give the Freedom of Information Act some teeth.

Why the President would veto such a bill on the heels of his pledge to more openness is exceedingly difficult to understand. In his veto message of October 17, 1974, the President asserted that the courts had neither the expertise nor the constitutional jurisdiction to question the classification of documents. This allegation is reminiscent of the argument used by the former President Nixon in his attempt to keep the Watergate tapes secret—and argument which, I might add, was rebuked by a unanimous Supreme Court in the case of United States against Nixon.

The American people want and deserve more candor in the conduct of the public's business. They do have a right to know what their Government is doing. To protect, to expand, and to strengthen that right are the purposes of the Freedom of Information Act amendments. The bill is the product of careful study and deliberations extending over a period of more than 3 years. If ever a veto deserved to be overriden, it is this one.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I will at the appropriate time ask for general leave to extend; but having no further requests for time, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill (H.R. 12471) the objections of the

President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 371, nays 31, not voting 32, as follows:

[Roll No. 634]

YEAS—371

Abdnor	Derwinski	Ketchum
Abzug	Devine	Kluczynski
Adams	Dickinson	Koch
Addabbo	Diggs	Kyros
Alexander	Dingell	Lagomarsino
Anderson, Calif.	Donohue	Landrum
	Dorn	Latta
Anderson, Ill.	Downing	Leggett
Andrews, N.C.	Drinan	Lehman
Andrews, N. Dak.	Dulski	Lent
	Duncan	Litton
Annunzio	du Pont	Long, La.
Archer	Eckhardt	Long, Md.
Armstrong	Edwards, Ala.	Lott
Ashbrook	Edwards, Calif.	Lujan
Ashley	Eilberg	Luken
Aspin	Erlenborn	McClory
Badillo	Esch	McCloskey
Bafalis	Evans, Colo.	McCollister
Barrett	Evins, Tenn.	McCormack
Bauman	Fascell	McDade
Bell	Findley	McEwen
Bennett	Fish	McFall
Bergland	Flood	McKay
Bevill	Flowers	McKinney
Biaggi	Flynt	McSpadden
Biester	Foley	Macdonald
Bingham	Ford	Madden
Blackburn	Forsythe	Madigan
Blatnik	Fountain	Mahon
Boland	Fraser	Mallary
Bolling	Frenzel	Mann
Bowen	Frey	Maraziti
Brademas	Froehlich	Martin, Nebr.
Breaux	Fulton	Mathias, Calif.
Breckinridge	Fuqua	Mathis, Ga.
Brinkley	Gaydos	Matsunaga
Brooks	Gettys	Mayne
Broomfield	Giaimo	Mazzoli
Brotzman	Gibbons	Meeds
Brown, Calif.	Gilman	Melcher
Brown, Mich.	Ginn	Metcalfe
Brown, Ohio	Goldwater	Mezvinsky
Broyhill, N.C.	Gonzalez	Michel
Buchanan	Grasso	Milford
Burgener	Green, Pa.	Miller
Burke, Calif.	Griffiths	Mills
Burke, Fla.	Gross	Minish
Burke, Mass.	Grover	Mink
Burlison, Mo.	Gude	Minshall, Ohio
Burton, John	Gunter	Mitchell, N.Y.
Burton, Phillip	Guyer	Mizell
Butler	Haley	Moakley
Byron	Hamilton	Mollohan
Carey, N.Y.	Hammer-schmidt	Moorhead, Calif.
Carney, Ohio		
Carter	Hanley	Moorhead, Pa.
Casey, Tex.	Hanna	Morgan
Cederberg	Hansen, Idaho	Mosher
Chappell	Hansen, Wash.	Moss
Chisholm	Harrington	Murphy, Ill.
Clancy	Harsha	Murphy, N.Y.
Clark	Hawkins	Murtha
Clausen, Don H.	Hays	Myers
	Hechler, W. Va.	Natcher
Clawson, Del	Heckler, Mass.	Nedzi
Clay	Heinz	Nelsen
Cleveland	Helstoski	Nix
Cochran	Henderson	Obey
Cohen	Hicks	O'Brien
Collins, Ill.	Hillis	O'Hara
Conte	Hinshaw	O'Neill
Conyers	Holifield	Owens
Corman	Holt	Parris
Cotter	Holtzman	Passman
Coughlin	Horton	Patman
Crane	Howard	Patten
Cronin	Huber	Pepper
Culver	Hudnut	Perkins
Daniel, Dan	Hungate	Pettis
Daniel, Robert W., Jr.	Hunt	Peyser
	Ichord	Pickle
Daniels, Dominick V.	Johnson, Calif.	Pike
	Johnson, Colo.	Poage
Danielson	Johnson, Pa.	Powell, Ohio
Davis, S.C.	Jones, Ala.	Preyer
de la Garza	Jones, Okla.	Price, Ill.
Delaney	Jones, Tenn.	Pritchard
Dellenback	Jordan	Quie
Dellums	Karth	Quillen
Denholm	Kastenmeier	Railsback
Dennis	Kazen	Randall
Dent	Kemp	Rangel
Rees	Slack	Vanik
Regula	Smith, Iowa	Vigorito
Reid	Smith, N.Y.	Waldie
Reuss	Snyder	Walsh
Rinaldo	Spence	Wampler
Roberts	Staggers	Whalen
Robinson, Va.	Stanton, J. William	White
Robison, N.Y.		Whitehurst
Rodino	Stanton, James V.	Whitten
Roe		Widnall
Rogers	Stark	Wiggins
Rooney, Pa.	Steed	Wilson, Bob
Rose	Steele	Wilson, Charles H., Calif.
Rosenthal	Steelman	
Rostenkowski	Steiger, Wis.	
Roush	Stephens	Wilson, Charles, Tex.
Rousselot	Stokes	
Roy	Stubblefield	Winn
Roybal	Stuckey	Wolff
Ruppe	Studds	Wright
Ryan	Sullivan	Wyatt
St Germain	Symington	Wydler
Sandman	Symms	Wylie
Sarasin	Talcott	Yates
Sarbanes	Taylor, Mo.	Yatron
Satterfield	Taylor, N.C.	Young, Alaska
Schneebeli	Thompson, N.J.	Young, Fla.
Schroeder	Thone	Young, Ga.
Sebelius	Thornton	Young, Ill.
Seiberling	Tiernan	Young, S.C.
Shipley	Traxler	Young, Tex.
Shriver	Udall	Zablocki
Sikes	Ullman	Zion
Sisk	Van Deerlin	Zwach
Skubitz	Vander Veen	

NAYS—31

Arends	Gubser	Ruth
Beard	Hanrahan	Scherle
Bray	Hosmer	Shuster
Broyhill, Va.	Hutchinson	Steiger, Ariz.
Burleson, Tex.	King	Stratton
Collier	Landgrebe	Treen
Collins, Tex.	Martin, N.C.	Waggonner
Davis, Wis.	Montgomery	Ware
Fisher	Price, Tex.	Williams
Frelinghuysen	Rhodes	
Goodling	Runnels	

NOT VOTING—32

Baker	Hastings	Roncallo, Wyo.
Boggs	Hébert	Roncallo, N.Y.
Brasco	Hogan	Rooney, N.Y.
Camp	Jarman	Shoup
Chamberlain	Jones, N.C.	Teague
Conable	Kuykendall	Thomson, Wis.
Conlan	Mitchell, Md.	Towell, Nev.
Davis, Ga.	Nichols	Vander Jagt
Eshleman	Podell	Veysey
Gray	Rarick	Wyman
Green, Oreg.	Riegle	

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Baker.
Mr. Hébert with Mr. Conlan.
Mr. Rooney of New York with Mr. Eshleman.
Mr. Mitchell of Maryland with Mr. Davis of Georgia.
Mr. Riegle with Mr. Hogan.
Mr. Jarman with Mr. Camp.
Mr. Jones of North Carolina with Mr. Kuykendall.
Mr. Teague with Mr. Chamberlain.
Mr. Gray with Mr. Rarick.
Mr. Nichols with Mr. Roncallo of New York.
Mr. Roncallo of Wyoming with Mr. Conable.
Mrs. Green of Oregon with Mr. Hastings.
Mr. Shoup with Mr. Thomson of Wisconsin.
Mr. Towell of Nevada with Mr. Wyman.
Mr. Vander Jagt with Mr. Veysey.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

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

There was no objection.

RELIEF OF BURT, POPE, AND KENNEDY

The SPEAKER. The unfinished business is the further consideration of the veto message of the President of the bill H.R. 6624, an act for the relief of Alvin V. Burt, Jr., Eileen Wallace Kennedy Pope, and David Douglas Kennedy, a minor.

The question is: Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Massachusetts (Mr. DONOHUE), for 1 hour.

Mr. DONOHUE. Mr. Speaker, I yield myself such time as I may consume.

The bill H.R. 6624, the subject matter of this Presidential veto, when passed by the House provides for payments of certain sums to a newspaperman, one Alvin Burt and the widow and child of another newsman, Douglas Kennedy. These payments were recommended in an opinion of a Court of Claims Commissioners' panel transmitted to the House of Representatives in 1972.

The bill authorizes a payment to Alvin V. Burt, Jr., of $45,482 and a payment of $36,750 to the widow of Douglas E. Kennedy, deceased, and the same amount of $36,750 to the son. In each instance the amounts would be paid in full settlement of claims based upon injuries and disabilities suffered by the two newspapermen on May 6, 1965, as the result of wounds received when they were fired upon by U.S. marines at a checkpoint in Santo Domingo in the Dominican Republic.

The claims involved in this bill have been the subject of extended consideration. A bill and an accompanying House resolution were considered in the Committee on the Judiciary during the 90th Congress, and a House resolution (H. Res. 1110) was reported and passed the House in that Congress on May 21, 1968, which referred to bill to the Chief Commissioner of the Court of Claims as a congressional reference case. After extended consideration, the opinion in that case was filed November 16, 1972. The opinion and the accompanying statement of facts provide the basis for the provisions of H.R. 6624.

The facts in the case are as follows:

That bill passed the House on November 6, 1973 and passed the Senate on October 10, 1974. It was vetoed on October 29, 1974.

In 1962, Mr. Alvin V. Burt was the Latin American editor of the Miami Herald. Mr. Douglas E. Kennedy was the chief photographer of that same paper. On May 3, 1965, Mr. Kennedy and Mr. Burt flew to San Juan, Puerto Rico, and the next day were flown to Santo Domingo on a U.S. Navy plane. They traveled to the Dominican Republic as news-

men to cover the civil strife in that country. At that time the U.S. Army and Marine forces were performing a peacekeeping role and were maintaining a zone of neutrality which had been established to separate two contending local groups. It was at one of the checkpoints established to control passage through the neutral zone that the tragedy referred to in this bill occurred.

This car in which they were riding was marked with the word "Presna," the Spanish word for "press." The marine officer in charge of the checkpoint ordered a Spanish-speaking corporal forward to halt the car. The driver of the car complied with his hand signal to stop some 25 to 30 meters away from the blockade. The corporal called for the occupants to get out, but this request was not immediately complied with. After several minutes, the Dominican driver opened his door and began to get out. At this point, there were several rounds of rifle fire from the area beyond the claimants' car. At this, the driver slammed his door, the car accelerated violently in reverse, and at this point the marines opened fire on the car. Both Alvin V. Burt, Jr., and Douglas E. Kennedy were badly wounded and the injuries they sustained were those for which compensation would be paid as provided in this bill.

Each claimant received multiple wounds from machinegun fire. Mr. Kennedy was hit in the head and left leg and was more seriously injured than Mr. Burt. Each had multiple metal fragments in their bodies from the bullets and each required multiple surgical procedures to repair damage to bones, nerves, and other tissues. Douglas E. Kennedy died in Canada on November 10, 1971.

The opinion examines the question of impaired earning ability and other elements which bear upon the right to recovery. Each individual was forced to make changes in his occupation as a result of the injury sustained on May 6, 1965.

On the basis of the reasons stated in the opinion, Chief Commissioner and the review panel of commissioners concluded that the claimants had established that the United States has a moral obligation to recognize the claims of the two newspapermen. In essence, the opinion held that considerations bearing on the "sovereign honor and good conscience" of the United States dictate an obligation to compensate the persons injured in this incident. It was pointed out that Mr. Burt and Mr. Kennedy were present in the Dominican Republic to observe and report the events transpiring there and their presence was directly attributable to the encouragement and even the logistical support of the U.S. Government. As to the actions of the marines, the opinion stated that the marine gunfire that caused serious injuries to these two men was an unquestionably tragic occurrence but that, with the benefit of hindsight, was unwarranted. As was noted in the concurring opinion, the facts of the case make it clear that the start of firing by the marine guard involved a collapse of discipline and a loss of command control that was not warranted by the circumstances. While the marine guard's actions may not have met the tests of actionable negligence as required in a court of law, it is also clear that these men would not have sustained multiple wounds and injuries had the chain of command maintained control.

The Judiciary Committee agreed that the facts and circumstances provide the basis of an obligation on the part of the United States to compensate the individuals named in the amended bill in the amounts stated therein. This is an obligation based upon broad moral principles of right and justice. It is recommended that the amended bill be considered favorably.

The veto message of the President seeks to make a distinction between the terms "legal" or "equitable" claims as contained in the congressional reference statute and the use of the terms "good conscience" and "broad moral considerations" as stated in the congressional reference opinion recommending relief in this case. As a matter of fact, private bills do embody appeals for relief which are directed to the conscience of the Congress. The courts have recognized that when the Congress acts on such measures, the obligation of the United States is based upon a moral right recognized by the Congress.

The Supreme Court in the case of *United States* v. *Realty Co.*, 163 U.S. 427 (1896) commented on the basis of such claims against the United States. Specifically, the Court stated that:

> The nation, speaking broadly, owes a "debt" to an individual when his claim grows out of general principles of right and justice; when, in other words it is based upon considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of an individual, although the debt could obtain no recognition in a court of law. The power of Congress extends at least as far as the recognition and payment of claims against the government which are thus founded . . .

The term "equitable claim" was defined by the Court of Claims in the case of *Bertha A. Burkhardt, et al,* v. *the United States*, 113 Ct. Cls. 658 (1949). In commenting upon the use of that phrase in the congressional reference provisions of section 2509 of title 28, the court stated:

> We are therefore of the opinion that the term "equitable claim" as used in 28 U.S.C., Sec. 2509, is not used in a strict technical sense meaning a claim involving considerations of principles of right and justice as administered by courts of equity, but the broader moral sense based upon general equitable considerations.

This was reiterated in congressional reference case, Clarkson against United States, decided in 1971. In commenting on the basis for the recommendation, the opinion stated:

> The inquiry thus focuses on whether plaintiff has an equitable claim within the meaning of 28 U.S.C. § 2509(c). In this sense, "equitable" is used to mean broad moral responsibility, i.e., what the Government ought to do as a matter of good conscience.

This is precisely the basis cited for relief in this instance. I therefore urge my colleagues, in good conscience, that the veto in this instance be overridden.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Massachusetts and urge the House to vote to override the veto of the President in this instance.

The committee worked long and hard in consideration of this measure. It was indeed an equitable and justifiable claim and it passed in the subcommittee and the committee with substantial support.

I urge that the President's veto be overriden.

Mr. DONOHUE. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I thank the distinguished chairman of the subcommittee and I express my appreciation to him and to the ranking minority member for speaking on this bill. The chairman has very carefully and fully outlined the details of the matter. I simply would like to add this to what the chairman has laid out in the RECORD.

In my 20 years experience here I do not know of a claim bill that has been more carefully scrutinized by the Members of the Congress and the Court of Claims. In this case the matter went to the Court of Claims by reference of the House. There was a hotly contested trial there. The trial commissioner found in favor of the claimants in amounts higher than are called for in this bill. The matter was then considered by a review panel of three commissioners. The review panel unanimously recommended in favor of the claimants, although they did reduce the amounts recommended by the trial commissioner to the amounts which are now called for in this bill.

One other fact needs to be emphasized. While in the legal sense these men could not have been considered invitees of the U.S. Government, they were welcomed most strongly to provide press coverage in the Dominican Republic during the time of the ceasefire. I want to emphasize again it was not a combat situation. Our Marines were there to protect American citizens and to maintain a neutral zone. The Government flew these men from Puerto Rico to the Dominican Republic, briefed them, and gave them the credentials so they could do their work. And these men had previously talked to the very people at the checkpoint where this totally unwarranted tragic incident occurred.

Their injuries, I might add, were very substantial. One of the men was shot in the head and it took 30 stitches to close the wound. Each had multiple shell fragments throughout his entire body, in every muscle and nerve and bone. Many operations were required in order to put the men back into shape.

It has taken 9 long years for justice to find its way through the court of claims and the legislative process, only to vanish at the last moment with the President's perfunctory veto. During those 9 years the U.S. Court of Claims, the House of Representatives and the U.S. Senate all reached the same conclusion—that the United States has an obligation to compensate Burt and Kennedy for the injuries caused by U.S. Marines.

FOI

THE WASHINGTON POST DATE 20 NOV 74 PAGE A2

Federal Files: Freedom of Information...

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

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

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

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

In the same vein, the Justice Department released a report earlier this week on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saxbe felt compelled, on the basis of what the Justice Department had been forced to release about the program, to order a study of what the FBI had done. Mr. Saxbe found aspects of the program abhorrent. But FBI director Clarence M. Kelley actually defended the practices of his predecessor, J. Edgar Hoover. This is a good example of how important it is that this country have a strong Freedom of Information law that will make it possible for the public to learn of such activities—and such attitudes on the part of officials in sensitive and powerful jobs—and to learn of them as quickly as possible.

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

Freedom Info Bill

NEW YORK TIMES DATE 21NOV74 PAGE 1

HOUSE OVERRIDES TWO FORD VETOES BY HUGE MARGINS

Vote on Job Rehabilitation Is 398 to 7 and on Public Information 371 to 31

SENATE MAY ACT TODAY

Leaders in Two Parties See Message to President to Consult With Congress

By JAMES M. NAUGHTON
Special to The New York Times

WASHINGTON, Nov. 20 — The House of Representatives, dealing a serious blow to President Ford, overrode today his vetoes of two bills by overwhelming margins.

With all but a few lame-duck Republican Representatives abandoning the President, the House voted, 398 to 7, to override the veto of an $851-million vocational rehabilitation measure. House officials said that they believed the override margin was the largest on record.

The House also voted, 371 to 31, to override Mr. Ford's veto of legislation making Government information more accessible to the public.

Leading Republicans and Democrats characterized the House votes as a message to the President that he should consult with Congress in the future before rejecting legislation that had broad bipartisan backing.

Senate Ready to Act

The Senate is expected to underline such a message by voting to override the two vetoes tomorrow, although by somewhat less dramatic margins.

The House did sustain a third Presidential veto, voting 236 to 163, for a motion to override President Ford's disapproval of a bill to provide compensation to two reporters who were wounded accidentally by United States Marines in a 1965 uprising in the Dominican Republic.

Even that vote, however, was only 31 short of the two-thirds majority needed to override and was a reflection of the Congressional ferment. Private money claim bills are customarily dropped in the face of a White House veto.

The House is obviously in no mood to sustain a veto unless they are convinced there is something wrong with the bill," Representative John J. Rhodes of Arizona, the House Republican leader, said of the votes.

He said that they appeared to herald a climate in which vetoes would be sustained only if directed at "flagrantly bad" legislation or at major, inflationary increases in Federal spending.

Some Bewildered

Some House members professed bewilderment that Mr. Ford had sought to kill the two bills, each of which had cleared Congress originally with almost no opposition.

"There's a message to Ford," said Representative Wayne L. Hays, Democrat of Ohio. "Its is, 'Get rid of some of those fellows who are giving you bum advice.'"

Of the two measures approved by the House over Mr. Ford's vetoes, the public information bill was the more strenuously opposed by the White House.

The measure consists of a series of amendments to the Freedom of Information Act of 1966. The act authorizes individual to file complaints in United States District Courts to force a Government agency to produce information and provides for punishment of agency officials who refuse to comply.

Foreign policy and national defense information were exempted from the original act, but one of the 17 amendments would permit a petitioner to ask that a Federal judge privately review classified information to determine if it should be made public. Under a 1973 Supreme Court ruling, judges have such authority only in criminal cases.

Another of the amendments would set strict time limits—in most cases, a maximum of 40 days—for an agency to respond to a citizen's request for information. A third provision would award court costs to an individual who successfully brought suit to force the disclosure of documents.

Mr. Ford urged congress to revise the proposal to eliminate such provisions. He contended that the measure was "constitutional and unworkable" in its present form because it could adversely affect diplomatic relations, jeopardize national security secrets and subject the Government to burdensome examinstions of requested information.

Veto Called Ill-Advised

No one in the House spoke today in support of the President's position on the bill. But several of its proponents called the veto ill-advised Represen tative William S. Moorhead, Democrat of Pennsylvania, rose to urge an overwhelming vote.

"Let our voices here today make clear to the doubting citizens of America," he said, "that Congress, at least, is committed to the princip of open government." W2

Representative Bill Alexander, Democrat of Arkansas, his voice rising from the well of the House, referred to the Watergate scandal and shouted the following rhetorical question:

"Hasn't the White House learned that Government secrecy is the real enemy of Democracy?"

The author of the Freedom of Information Act, Representative John E. Moss, Democrat of California, said that Mr. Ford had evidently acted on the advice of bureaucrats who were "the same group of people who so vigorously urged the late President Lyndon B. Johnson to veto the original legislation."

The second measure tentatively saved from death-by-veto would set funding levels in the fiscal year 1976 for Federal Programs to rehabilitate handicapped persons and, in the sponsors' view, rescue the programs from "mismanagement" by the Social and Rehabilitation Service of the Department of Health, Education and Welfare.

President Ford objected that transferring the programs to the office of the H.E.W. Secretary was an attempt to "administer through legislation," would require a new monitoring process and necessitate "a new, 250-man bureaucracy" and would duplicate functions carried out elsewhere in the department.

'Completely inaccurate'

But Republicans joined Democrats in asserting that Mr. Ford had been ill-advised and misinformed about the bill and in noting that it was in fact patterned after part of a Nixon Administration reorganization plan. The President's veto message, said Representative Alphonzo Bell, Republican of California, was "completely inaccurate."

In the end, only Representative Earl F. Landgrebe of Indiana, one of 36 Republicans defeated in re-election bids on Nov. 5 and the sole House member to oppose the rehabilitation bill in October, defended the veto. He urged all House members, "particularly Republican members, to take this opportunity to support President Ford."

Mr. Landgrebe's appeal was spurned by all but six other Republicans who were defeated or are retiring from the House—Representative Joel T. Broyhill of Virginia, Glen R. Davis of Wisconsin, Craig Hosmer of California, William E. Minshall of Ohio and John H. Ware and Lawrence G. Williams of Pennsylvania.

House
Override of
Veto