...e Federal Government, and examination ...and local governmental regulatory agencies ...interact with the Federal system (S. 704, 770, ...4, and 4155), receiving testimony from Roy L. Ash, Director, Office of Management and Budget, Executive Office of the President; Lewis A. Engman, Chairman, Federal Trade Commission; and Miles Kirkpatrick, Washington, D.C.

Hearings continue tomorrow.

PROJECT INDEPENDENCE

Committee on Interior and Insular Affairs: Committee received a briefing on "Project Independence" from Dr. John C. Sawhill, Federal Energy Administrator.

LABOR MARKET POLICY

Committee on Labor and Public Welfare: Subcommittee on Employment, Poverty, and Migratory Labor held a hearing on labor market policy, receiving testimony on such policy in Sweden from Ingemund Bengtsson, Secretary of Labor, Stockholm.

Hearings were recessed, subject to call.

SOLID WASTE

Committee on Public Works: Subcommittee on Environmental Pollution resumed consideration of proposed legislation on solid waste management, but did not conclude action thereon and recessed, subject to call.

House of Representatives

Chamber Action

Bills Introduced: 13 public bills, H.R. 17488–17500; 2 private bills, H.R. 17501 and 17502; and 7 resolutions, H.J. Res. 1169, H. Con. Res. 686, and H. Res. 1471–1475 were introduced. Pages H 10928, H 11003–H 11004

Bill Reported: One report was filed as follows:

Conference report on H.R. 15580, Labor-HEW appropriations for fiscal year 1975 (H. Rept. 93–1489). Page H 11003

Late Report: Conferees received permission to file a conference report by midnight tonight on H.R. 15580, Labor-HEW appropriations for fiscal year 1975. Pages H 10923–H 10928

Supplemental Appropriations: House disagreed to the Senate amendments to H.R. 16900, making supplemental appropriations for fiscal year 1975; and agreed to a conference asked by the Senate. Appointed as conferees: Representatives Mahon, Whitten, Evins of Tennessee, Boland, Flood, Steed, Slack, Hansen of Washington, McFall, Casey of Texas, Cederberg, Michel, Robison of New York, Shriver, McDade, and Talcott. Page H 10928

Committee Elections: Read and accepted a letter from Representative Latta wherein he resigns as a member of the Committee on the Judiciary. Subsequently, agreed to H. Res. 1471, electing Representative McCloskey to the Committee on the Judiciary. Page H 10928

Committee To Sit: Committee on Merchant Marine and Fisheries received permission to sit during the 5-minute rule of today's session of the House. Page H 10929

Farm Labor Contractor Registration: The President's veto of H.R. 13342, Farm Labor Contractor Registration, was referred to the Committee on Education and Labor. Page H 10929

Urban Mass Transportation: By a yea-and-nay vote of 288 yeas to 109 nays, the House agreed to the conference report on S. 386, to authorize certain grants to assure adequate commuter service in urban areas; clearing the measure for the President.

H. Res. 1470, the rule waiving points of order against the conference report, was agreed to earlier by a recorded vote of 241 ayes to 154 noes. Pages H 10929–H 10950

Late Report: Committee on Ways and Means received permission to file a report by midnight Tuesday, November 26 on H.R. 17488, to provide a windfall profits tax on oil, to phaseout percentage depletion on oil and natural gas, to increase the low income, to make changes in the treatment of foreign income, and to make certain other adjustments in the tax laws. Page H 10950

Privacy: By a yea-and-nay vote of 353 yeas to 1 nay, the House passed H.R. 16373, to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies.

Agreed to the committee amendment in the nature of a substitute, as amended.

Took the following action on the committee amendment in the nature of a substitute:

Agreed to:

An amendment that exempts records of law enforcement agencies from the prohibition on maintaining records of an individual's religious beliefs or political activities;

An amendment that restricts disclosure of medical records by an agency to those instances in which the life of the individual would be endangered if the requested information was withheld;

An amendment that assures that individuals who refuse to disclose their social security account numbers will not lose any Federal benefits or services to which they are entitled;

An amendment that includes valid court subpenas among those items for which disclosure of records would be allowed;

An amendment to the section on access to records that prohibits individuals from gaining access to information compiled in a civil action or proceeding;

An amendment that exempts information compiled by investigating agencies such as the FBI from the provisions of the bill except for cases in which the withholding of information would cause an individual to lose his rights and benefits under Federal law; and

An amendment that requires annual publication in the Federal Register of all rules and notices promulgated by Government agencies.

Rejected:

An amendment that sought to insure redress for damages in all cases in which an agency violates the civil remedies provisions of the bill rather than only in cases in which the agency is shown to have acted in a willful or capricious manner;

An amendment that sought to strike language exempting records maintained for an agency by the CIA from the disclosures provisions of the bill;

An amendment that sought to establish a Federal Privacy Commission (rejected by a division vote of 9 ayes to 29 noes); and

An amendment that sought to strike language exempting records maintained in connection with protection services provided to the President from the provisions of the bill. Pages H 10950–H 10972

Late Reports: Committee on Ways and Means received permission to file a report by midnight Friday, November 22, on H.R. 17045, to amend the Social Security Act to establish a consolidated program of Federal financial assistance to encourage provision of services by the States; and

Objection was heard to a request that conferees have until midnight tonight to file a conference report on S. 425, to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines.

Page H 10972

Legislative Program: Majority Whip announced the program for the week beginning Monday, November 25. Agreed to adjourn from Thursday to Monday.

Page H 10972

Referrals: Three Senate-passed measures were referred to the appropriate House committees. Page H 11002

Quorum Calls—Votes: One quorum call, two yea-and-nay votes, and one recorded vote developed during the proceedings of the House today and appear on pages H10929, H10938, H10949–H10950, and H10971.

Program for Monday: Met at noon and at 5:20 p.m. until noon on Monday, November 21, 19, day, when the House will consider H.R. 174 Counsel for D.C. Public Service Commission; sider the following:

H. Res. 1387, Place for Amendments in Congressio Record;

H.R. 16609, AEC Supplemental Authorization (open rule, 1 hour of debate);

H.J. Res. 1161, Entry into Foreign Ports of U.S. Nuclear Warships (open rule, 1 hour of debate); and

H.R. 16074, Nuclear Information for Congress (open rule, 1 hour of debate).

Committee Meetings

AGRICULTURE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Agriculture held a hearing on budget rescissions and deferrals.

DEFENSE COMMUNICATIONS

Committee on Armed Services: Special Subcommittee on Defense Communications continued executive hearings with testimony from Rear Adm. J. L. Boyes, Director, Naval Communications Division; and Col. Philip C. Walker, Director, Telecommunications Division, U.S. Marine Corps.

ENFORCER-TYPE AIRCRAFT

Committee on Armed Services: Subcommittee No. 1 met for briefing by Department of Defense on their findings concerning the requirement for an Enforcer-type aircraft.

SELECTED PROGRAMS

Committee on Armed Services: Subcommittee No. 1 met in executive session for discussion on selected Air Force, Navy, and Army programs.

FARM LABOR CONTRACTOR REGISTRATION ACT—TRUMAN MEMORIAL SCHOLARSHIP PROGRAM

Committee on Education and Labor: Met and ordered reported favorably to the House the following bills:

H.R. 17474, Farm Labor Contractor Registration Act of 1974; and

H.R. 17481 amended, Harry S. Truman Memorial Scholarship program.

SOVIET ACTIVITIES IN CUBA

Committee on Foreign Affairs: Subcommittee on Inter-American Affairs held an executive hearing on Soviet activities in Cuba. Witnesses heard were Maj. Gen. Lincoln D. Faurer, U.S. Air Force, Deputy Director

Fountain	Long, Md.	Rousselot
Goodling	Lott	Ruppe
Gross	McCollister	Ruth
Hammer-schmidt	McEwen	Satterfield
Henderson	McKay	Scherle
Hicks	McSpadden	Shuster
Holt	Mahon	Spence
Hosmer	Mallary	Steed
Huber	Mann	Steiger, Ariz.
Hutchinson	Martin, Nebr.	Stubblefield
Ichord	Mathis, Ga.	Symms
Jarman	Mayne	Taylor, Mo.
Johnson, Calif.	Miller	Taylor, N.C.
Johnson, Colo.	Mizell	Thomson, Wis.
Johnson, Pa.	Montgomery	Treen
Jones, Ala.	Nichols	Waggonner
Jones, Okla.	Passman	Wampler
Jones, Tenn.	Price, Tex.	Whitten
Ketchum	Quillen	Young, S.C.
Landgrebe	Randall	Young, Tex.
Latta	Roberts	Zion
	Robinson, Va.	

NOT VOTING—37

Armstrong	Harsha	Rarick
Bergland	Hébert	Riegle
Boggs	Heckler, Mass.	Roncalio, Wyo.
Brasco	Jones, N.C.	Roncallo, N.Y.
Camp	Kuykendall	Rooney, N.Y.
Conable	Landrum	Runnels
Crane	Lujan	Sarbanes
Dulski	Luken	Sebelius
Eshleman	Minshall, Ohio	Sikes
Giaimo	Patman	Staggers
Grasso	Poage	Wyman
Griffiths	Podell	
Hanna	Powell, Ohio	

So the conference report was agreed to.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Dulski.
Mr. Hébert with Mrs. Grasso.
Mr. Sikes with Mr. Luken.
Mr. Riegle with Mrs. Griffiths.
Mr. Rooney of New York with Mr. Hanna.
Mr. Giaimo with Mr. Rarick.
Mr. Staggers with Mr. Kuykendall.
Mr. Sarbanes with Mr. Crane.
Mr. Bergland with Mr. Harsha.
Mr. Jones of North Carolina with Mr. Camp.
Mr. Landrum with Mr. Eshleman.
Mr. Roncallo of Wyoming with Mr. Conable.
Mrs. Heckler of Massachusetts with Mr. Lujan.
Mr. Runnels with Mr. Minshall of Ohio.
Mr. Sebelius with Mr. Patman.
Mr. Roncallo of New York with Mr. Powell of Ohio.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the conference report to accompany S. 386, the Urban Mass Transportation Assistance Act of 1974, just agreed to.

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

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, TUESDAY, NOVEMBER 26, 1974, TO FILE A REPORT, ALONG WITH MINORITY AND/OR SEPARATE VIEWS, ON H.R. 17488

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Tuesday, November 26, 1974, to file a report on the bill, H.R. 17488, the Energy Tax and Individual Relief Act of 1974, along with any minority and/or separate views.

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

There was no objection.

PERSONAL EXPLANATION

Mr. RONCALIO of Wyoming. Mr. Speaker, I wish to state that I would like the record to show that on the vote on the conference report on S. 386, the Urban Mass Transportation Assistance Act of 1974, just completed, I was unable to return to the floor in order to record my vote. I was in conference on the strip mine bill.

Had I been present and voted, I would have voted against the conference report.

SENATE OVERRIDES PRESIDENTIAL VETO ON FREEDOM OF INFORMATION ACT

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I take this occasion to advise the Members of the House that the other body has followed the leadership of the House and has voted to override the veto on the Freedom of Information Act.

PRIVACY ACT OF 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 16373) to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The motion was agreed to.

The SPEAKER. The Chair requests the gentleman from Tennessee (Mr. FULTON) to assume the Chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 16373, with Mr. FULTON (Chairman pro tempore) in the chair.

The CHAIRMAN pro tempore. When the Committee rose on yesterday, the amendment in the nature of a substitute to the bill was subject to amendment at any point.

Are there further amendments?

AMENDMENT OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of Pennsylvania: On page 31, strike lines 5 through 9 and insert in lieu thereof the following:

"(3) In a suit brought under the provisions of subsection (g)(1) (B) or (C) of this section in which the court determines that the agency failed or refused to comply with any provision of subsection (g)(1) (B) or (C) of this section, the United States shall be liable to the individual in an amount equal to the sum of—"

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

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the purpose of this amendment is to insure that persons who are actually damaged by the failure of the Government agency to comply with the provisions of subsection (g)(1) (B) or (C) are compensated for their losses.

The amendment does not contain a provision for punitive damages, which was objected to yesterday. There is nothing in this amendment, therefore, which subjects the Government to an undue burden. The burden is on the citizen. The citizen must prove that there was a violation of the provision of this act. He must then prove that the adverse determination which damaged him was caused by the above violation. He must finally prove the damages caused by the violation.

With this substantial burden already placed on the litigant, I see no reason to require that proof also be offered of willful, arbitrary, or capricious action by the defendant agency.

This amendment was suggested as a reasonable compromise by the gentleman from Texas (Mr. ECKHARDT), and I now yield to him.

Mr. ECKHARDT. Mr. Chairman, I thank the distinguished subcommittee chairman.

It will be recalled by those who heard the debate yesterday that the primary objection to the Fascell amendment was that the Government should not be subjected to punitive damages. I think that that was the major ground upon which that amendment was defeated.

Frankly, had I thought that the Government would practically be so jeopardized, I would have voted against it too. I did not think that it was a practical danger, but this amendment completely removes that proposition.

However, the amendment does afford a correction of what seemed to me to be a very bad defect in the existing language, and that is that even though a person may not be able to get a job because his record falsely indicated his having been discharged when he had, in fact resigned, if an agent of Government made an innocent mistake in failing to go through with the procedure provided in this bill and the person whose record was falsely stated lost a job and therefore lost the money that he would have made on that job, he could still not sue because he could not show that the action was willful, arbitrary, or capricious.

It seems to me to be a matter of basic justice to permit a person who is actually injured by some act of an agent of the

jurisdiction in this respect was compellingly stated in the select committee report:

With its experience in highways and roads legislation, the new committee will be challenged by a broadened transportation responsibility and be able to achieve the select committee's objective of an integrated approach to this important public policy.

Granted, the final Hansen package left jurisdiction over rails with the Committee on Commerce and Health. But the select committee's rationale was ratified by the House in respect to the jurisdiction over urban mass transit.

To this, I would add the observation that the Committee on Public Works has also gained valuable experience in another undertaking—the Water Pollution Control Act, which eventually will surpass highway construction as a public works program—which enhances its capability in dealing with massive construction efforts.

In summary, Mr. Speaker, the Committee on Public Works has in gradual and orderly fashion expanded its constructive role on the urban public transportation scene to the point where it has been voted exclusive jurisdiction in the field. It has produced a $11.3 billion, 6-year program of capital and operating subsidies for mass transit which this House has already passed on August 20 by an overwhelming vote of 324 to 92.

By contrast, we are confronted here today with the product of a rump session of conferees locking in a program for 6 years beyond the expiration of the jurisdiction of the Committee on Banking and Currency.

A great matter of principle is involved in what happens today. We are witnessing a procedural end-run around our committee that will come back to haunt you. If you vote for this I predict, here and now, that the leadership of the Executive and the House will be back—asking our Public Works Committee to help straighten out this expedient "mess" transit bill.

It has been said that an act of Parliament can do no wrong though it may do several things that look pretty odd. I must say that certainly is the case today. What we have been asked to do is odd in the extreme from a parliamentary procedural point of view.

When one refers to Jefferson's manual and the Rules of the House of Representatives, I must say the gentleman from Albemarle who left his most important procedures on the House of Representatives for almost 200 years must be overseeing our operations today with a sense of scorn.

For too long, Congress has been criticized for abdicating its powers to legislate to the judicial and executive branches. I submit to you that we will continue to lose our influence unless we do a better job of legislating. It is incumbent upon us to review and evaluate thoroughly our action. This includes thorough hearings, extensive debate in the committee, preparation of thorough committee reports, debate of the merits on the floor, reconciliation of the differences of the two bodies in conference, and review of the conference report. This is the time-honored method for the two bodies to produce the type of legislation our Nation requires and deserves. It also provides a legislative history which provides a guide to the implementing departments.

I submit that the old adage that haste makes waste is applicable to that which we are being asked to do today. We have the opportunity to utilize proper procedures and to provide a proper legislative history. That is why we asked you to turn aside this restrictive rule and support the opportunity of having our bill considered in the other body.

How many Members of this distinguished body have been offended in the past when the Senate has returned legislation with nongermane amendments and demanded their passage? How many times has this House been offended by the departures of the Senate suggesting we forget our rules.

I know each of us has seen the other body attempt to impose its poorly structured rules on this body. Admittedly, the situation at this time is slightly different, but we are now faced with a gross departure from our normal rules as well as refusal in the other body to consider the comprehensive and detailed mass transit legislation which was approved in this House by an overwhelming vote.

I submit if we allow major legislation of this type to be drafted in a committee on conference we shall rue the day. I am sure if we allow the other body to prevail we shall be faced with a similar situation in the future.

If so many are enamored with the provisions of S. 386 it would be a relatively simple parliamentary process to bring about a conference on the differences between the comprehensive mass transit legislation passed by this body and the conference report language which was approved in the other body this week.

I strongly urge my colleagues to support the Public Works Committee efforts to retain, for the House, the time-honored procedures for providing the mass transit legislation our Nation deserves.

Mr. MINISH. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MINISH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 288, nays 109, not voting 37, as follows:

[Roll No. 640]

YEAS—288

Abzug	Bell	Brown, Calif.
Adams	Biaggi	Brown, Mich.
Addabbo	Biester	Brown, Ohio
Alexander	Bingham	Broyhill, Va.
Anderson, Calif.	Boland	Buchanan
Anderson, Ill.	Bolling	Burgener
Annunzio	Brademas	Burke, Calif.
Ashley	Breaux	Burke, Fla.
Aspin	Breckinridge	Burke, Mass.
Badillo	Brooks	Burton, John
Barrett	Broomfield	Burton, Phillip
	Brotzman	Carey, N.Y.
Carney, Ohio	Horton	Rodino
Carter	Howard	Roe
Cederberg	Hudnut	Rogers
Chamberlain	Hungate	Rooney, Pa.
Chisholm	Hunt	Rose
Clancy	Jordan	Rosenthal
Clark	Karth	Rostenkowski
Clay	Kastenmeier	Roush
Cohen	Kazen	Roy
Collins, Ill.	Kemp	Roybal
Conte	King	Ryan
Conyers	Kluczynski	St Germain
Corman	Koch	Sandman
Cotter	Kyros	Sarasin
Coughlin	Lagomarsino	Schneebeli
Cronin	Leggett	Schroeder
Culver	Lehman	Seiberling
Daniels, Dominick V.	Lent	Shipley
Danielson	Litton	Shoup
Delaney	Long, La.	Shriver
Dellenback	McClory	Sisk
Dellums	McCloskey	Skubitz
Dent	McCormack	Slack
Derwinski	McDade	Smith, Iowa
Diggs	McFall	Smith, N.Y.
Dingell	McKinney	Snyder
Donohue	Macdonald	Stanton, J. William
Dorn	Madden	Stanton, James V.
Downing	Madigan	Stark
Drinan	Maraziti	Steele
Duncan	Martin, N.C.	Steelman
du Pont	Mathias, Calif.	Steiger, Wis.
Eckhardt	Matsunaga	Stephens
Edwards, Ala.	Mazzoli	Stokes
Edwards, Calif.	Meeds	Stratton
Eilberg	Melcher	Stuckey
Erlenborn	Metcalfe	Studds
Esch	Mezvinsky	Sullivan
Fascell	Michel	Symington
Fish	Milford	Talcott
Flood	Mills	Teague
Flowers	Minish	Thompson, N.J.
Flynt	Mink	Thone
Foley	Mitchell, Md.	Thornton
Ford	Mitchell, N.Y.	Tiernan
Forsythe	Moakley	Towell, Nev.
Fraser	Mollohan	Traxler
Frelinghuysen	Moorhead, Calif.	Udall
Frenzel	Moorhead, Pa.	Ullman
Frey	Morgan	Van Deerlin
Froehlich	Mosher	Vander Jagt
Fulton	Moss	Vander Veen
Fuqua	Murphy, Ill.	Vanik
Gaydos	Murphy, N.Y.	Veysey
Gettys	Murtha	Vigorito
Gibbons	Myers	Waldie
Gilman	Natcher	Walsh
Ginn	Nedzi	Ware
Goldwater	Nelsen	Whalen
Gonzalez	Nix	White
Gray	Obey	Whitehurst
Green, Oreg.	O'Brien	Widnall
Green, Pa.	O'Hara	Wiggins
Grover	O'Neill	Williams
Gude	Owens	Wilson, Bob
Gunter	Parris	Wilson, Charles H., Calif.
Guyer	Patten	Wilson, Charles, Tex.
Haley	Pepper	Winn
Hamilton	Perkins	Wolff
Hanley	Pettis	Wright
Hanrahan	Peyser	Wyatt
Hansen, Idaho	Pickle	Wydler
Hansen, Wash.	Pike	Wylie
Harrington	Preyer	Yates
Hastings	Price, Ill.	Yatron
Hawkins	Pritchard	Young, Alaska
Hays	Quie	Young, Fla.
Hechler, W. Va.	Railsback	Young, Ga.
Heinz	Rangel	Young, Ill.
Helstoski	Rees	Zablocki
Hillis	Regula	Zwach
Hinshaw	Reid	
Hogan	Reuss	
Holifield	Rhodes	
Holtzman	Rinaldo	
	Robison, N.Y.	

NAYS—109

Abdnor	Bray	Conlan
Andrews, N.C.	Brinkley	Daniel, Dan
Andrews, N. Dak.	Broyhill, N.C.	Daniel, Robert W., Jr.
Archer	Burleson, Tex.	Davis, Ga.
Arends	Burlison, Mo.	Davis, S.C.
Ashbrook	Butler	Davis, Wis.
Bafalis	Byron	de la Garza
Baker	Casey, Tex.	Denholm
Bauman	Chappell	Dennis
Beard	Clausen, Don H.	Devine
Bennett	Clawson, Del	Dickinson
Bevill	Cleveland	Evans, Colo.
Blackburn	Cochran	Evins, Tenn.
Blatnik	Collier	Findley
Bowen	Collins, Tex.	Fisher

Government which is in violation of this subsection to recover on ordinary bases, that is, by showing that the act was violated and that he sustained injury.

There is nothing in this that would provide for any damages beyond his actual out-of-pocket expenses because of the flaw.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

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

Mr. ICHORD. Mr. Chairman, I would like to ask the gentleman from Texas (Mr. ECKHARDT) as to what is the standard of conduct that would cause the Government to be liable? Would the Government be liable? I would ask the gentleman from Texas this question: If there was an innocent mistake made in violation of this bill, would the Government be liable?

Mr. ECKHARDT. I do not know what "innocent mistake" means. As the gentleman knows, the act provides that if I ask for information concerning what is in my record I am entitled to have it. Having received that, and finding something that is erroneous in that information, I may then submit the correction. The agency must then either correct or must file reasons why it does not correct it.

Let us assume, for instance, that the agency, after I request the information, misplaces my letter and does not send me the information and, in the meantime, I seek a position with another government agency, and I am denied employment on the grounds that I have been discharged, when in fact I was not discharged. I think I am entitled to recover even though the action of the governmental agency may not have been willful; it is just a question of determining what the fact was.

Mr. ICHORD. There would be an element of negligent conduct, or unreasonable conduct, would there not?

Mr. ICHORD. I think so; yes.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

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

Mr. ERLENBORN. Mr. Chairman, I think the gentleman from Missouri (Mr. ICHORD) has asked a very good question as to standards of conduct. There are no standards of conduct required under this amendment. This amendment would make the Government a guarantor of the accuracy of everything that it has in its files.

The amendment says that any suit brought under subsection (g)(1)(B), (C) of this section does not have to refer to any standards of conduct. What do (g)(1)(B) and (C) require? (B) requires that the agency maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness.

Now, if there is any inadvertent inaccuracy in a government file, a suit could be filed under this amendment, and damages asked and recovered.

(C) says:

> . . . fails to comply with any other provision of this action, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency. . . .

Again, this provision prescribes no standard of conduct. If a Government agency inadvertently violated any rule—whether a mistake be inadvertent or willful—a suit could be brought under this amendment for damages. This exposes the Government to undue liability. It makes the Government the guarantor of every piece of information that it has in every one of its files. It is not even prospective; this would be retroactive—Government employees would have to go through and clean up all their files so that they would not expose themselves to such liability.

I am surprised that the gentleman from Pennsylvania would offer this amendment at the last minute, without any warning. This was not reported out by the committee. This was not supported by the committee. Even though the gentleman is the manager of the bill, the gentleman does this on his own, and I am sure that he would tell the Members that that is correct.

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield, I would not like to leave the inference in the record that this is a committee amendment. It is an amendment that was proposed by the gentleman from Texas (Mr. ECKHARDT) as a reasonable compromise between the bill language on page 31—"willful, arbitrary, or capricious." I feel this compromise is necessary since punitive damages are not authorized in this bill because of the defeat of the Fascell amendment yesterday.

This is just to try to make a citizen whole when the Government has damaged him.

Mr. ERLENBORN. I am afraid the gentleman has just gone much too far on this in making the Government liable.

I read yesterday a statement that the President firmly supports this bill with only one reservation, and that reservation was taken care of by the adoption of the amendment I offered yesterday. But I am telling the Members if we adopt this amendment, we would be exposing the Government to blanket liability as a guarantor of every piece of personal information in its files, and I, for one, would recommend to the President—as important as this bill might be—that he veto it. We just cannot afford to have that kind of liability, leaving the Government so exposed. I hope the amendment will be defeated.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

I do not believe the gentleman's fears are justified. This amendment does not require that the Government be the guarantor of every fact determined. The Government need only comply with the standards set out in (g)(1) and (B) and (C). Certainly the Government ought to assure fairness in any determination. Surely the Government ought to be fair, and if it is unfair, the matter should be reviewable in court. Certainly the Government should do the things that are required under the standards here. Certainly the Government should supply the material. Certainly the Government should give the reasons, if it refuses to correct an asserted error.

If the Government does all of those things and acts in compliance with the language of the bill, the Government is not subjected to any liability whatsoever. There is no requirement of an assurance that the Government be absolutely correct with respect to every fact which is listed in a person's record. The Government need only be fair, and it need only comply with the standards of the act.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

As I understand, in the proposed amendment there is an addition to the discretionary authority which is in the court to assess reasonable attorneys' fees where the plaintiff substantially prevails; is that correct? So this would provide for actual damages in those situations as a matter of right, knowing that the law has not been complied with. Is there a precedent in other legislation by this automatic assessment of actual damages by a citizen against the U.S. Government?

Mr. ECKHARDT. Yes, there are several. I do not have bills in which this comes to mind immediately, but I know that we have had several here recently out of the Committee on Interstate and Foreign Commerce. I believe there was a provision of that nature with respect to citizens' suits regarding the products safety bill. I am not absolutely sure of that.

Mr. BUTLER. Is the Federal Government obligated under the products safety bill?

Mr. ECKHARDT. No, no.

Mr. BUTLER. I am talking about the Federal Government. Is there a law saying that a citizen can recover damages when a minor clerk fails to perform his duties timely and completely, fairly accurately, and so forth? Is there a precedent for that?

Mr. ECKHARDT. I do not know whether there is or not, but I would answer the gentleman in this way. I would say that if the Federal Government acts in violation of its own statutory obligations, I can think of no agency that should be called upon more to pay attorneys' fees, because the public pays the Federal Government attorneys' fees.

Mr. BUTLER. We are plowing new ground, then.

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield, when this was taken up yesterday, there was great argument that punitive damages had no precedent. I think that was one of the reasons that that amendment was defeated. But the inference is clearly left that there are other statutes under which actual damages can be awarded against the Government.

Mr. ECKHARDT. I might also say that we do not affect that portion of the bill. Attorneys' fees are provided in the bill,

whether this amendment is passed or not. If the gentleman wishes to strike that, he might still do it by amendment, even if this amendment is agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 28, line 16, strike out the period after the word "maintained" and add the following: "; *Provided, however*, that the provisions of this paragraph shall not be deemed to prohibit the maintenance of any record of activity which is pertinent to and within the scope of a duly authorized law enforcement activity."

Mr. ICHORD. Mr. Chairman, as I pointed out in general debate this amendment can be described as a clarifying amendment. The managers of the bill have stated that they did not intend to do what I questioned they might be doing, and this language was worked out in cooperation with the managers of the bill. It is really to make certain that political and religious activities are not used as a cover for illegal or subversive activities.

In its present form paragraph (4) would prohibit any agency from maintaining any record concerning the "political or religious belief or activity" of any individual, unless "expressly authorized by statute" or by the individual. The use of the terms "expressly authorized by statute" would seem to indicate that unless the statute by specific terms—rather than by "implication"—authorized the agency to maintain such a record, maintenance would be prohibited, and that this would therefore have the effect of prohibiting the maintenance of records concerning Communist and other subversive organizations on the theory that they are engaged in "political" activities.

We may well recognize that the purpose of the provision is commendable and legitimate in prohibiting the disclosure of such records with respect to conventional political and religious beliefs and activities, but that it can be construed to cover activities which are properly within the scope of legitimate law enforcement. For example, the Communist Party and similar groups may claim that they are within the scope of the provision of this paragraph as a "political" activity. Similarly, certain sects within the Black Muslim movement, which are engaged in activities described by the Director of the FBI as endangering the internal security, may claim exemption as a "religious" belief.

It is the purpose of the amendment to make clear that such activities as are pertinent to, and within the scope of, duly authorized law enforcement activities are not meant to be excluded by the broad terms of paragraph (4). It is simply a clarifying amendment, so that we obviate any necessity for litigation on the reach of the paragraph.

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

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I understand that this amendment should be construed in the light of the colloquy we had yesterday, that there was no intention to interfere with the first amendment rights of citizens.

Mr. ICHORD. I state emphatically to the gentleman from Pennsylvania that this amendment is not intended to hurt in any way the exercise of the first amendment rights.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no objection on this side of the aisle to the amendment.

Mr. ICHORD. Mr. Chairman, before yielding back the balance of my time, there is one further clarification that I would like to have from the gentleman from Pennsylvania as a matter of legislative history.

I state to the gentleman that I have expressed the concern that this measure might adversely affect the operations of the industrial security program or might even destroy the operation of the industrial security program. The gentleman from Pennsylvania and the gentleman from Illinois have assured me privately that this was not intended, but I do think we should have some legislative history.

How will the provisions of this bill affect the operation of the industrial security program?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if the gentleman will yield, the gentleman has raised an important question and I am pleased to explain its application. This bill would not disturb current procedures used in industrial security investigations, in the transfer of classified or unclassified information in such matters, in security clearances, or other related industrial security needs. Our subcommittee recently conducted hearings on the industrial security program as related to the security classification system, so that we are quite familiar with the program.

Subsection (e)(2)(D) on page 27 of the bill permits any agency, including an agency involved in industrial security activities, to publish in the Federal Register a notice for each system of records it maintains. This notice would list the "routine purpose" for which the records are used or are intended to be used. Thus, a Federal agency engaged in industrial security matters would state that one of the "routine purposes" for which information about an individual is collected and used for security clearances or other uses is to carry out its responsibilities under the industrial security program. It could then transfer, use or maintain information about individuals, or otherwise operate its industrial security program just as it has in the past. I trust that this explanation answers the gentleman's question.

I trust that this explanation satisfies the gentleman from Pennsylvania.

Mr. ICHORD. I thank the gentleman for his clarification.

I would also like to ask the gentleman from Illinois, is that his understanding or interpretation? The term "routine use" is rather ambiguous without further legislative clarification.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I agree with the interpretation given the language by the gentleman from Pennsylvania. I think it will be the obligation of each agency which maintains such a system to list what the uses of the records in that system will be. The word "routine," then, while itself a little ambiguous, will be definitely clarified by publication in the Federal Register of what actual uses will be the routine uses to which each record is put.

Mr. ICHORD. Mr. Chairman, I thank the gentleman for his explanation. I move the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: On page 23, strike out lines 18 through 21 and insert in their place the following:

"(7) to a person who is actively engaged in saving the life of such individual, if upon such disclosure notification is transmitted to the last known address of such individual; or".

Mr. GUDE. Mr. Chairman, the purpose of this amendment is to clarify one item I believe to be ambiguous in intent. In restricting the circumstances under which information on individuals could be disclosed by Federal agencies, it was the intention of the committee to exclude information which would be vital to the health or safety of an individual. For example, if there had been an accident, and the attending doctor needed the victim's medical history before proceeding with treatment which might be necessary to save his life, we would not want the Federal Government to be forbidden to transmit that information, nor would we want to require a time consuming approval process which might result in the individual's death before the information could be provided.

However, I believe the current language of the bill is too vague in this regard, in that it would permit such disclosures without prior permission in less than emergency cases, and it does not make clear to whom the information could be discussed. My amendment

would simply leave no doubt as to the intent of the bill to restrict this kind of disclosure only to truly life-threatening emergencies, and then only to disclose the information to those actively engaged in trying to save the life of the individual in question.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for yielding. I am not sure the amendment is necessary. I have no objection to the amendment and, as far as I know, on this side of the aisle we accept it.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Illinois.

Mr. ERLENBORN. We have had a copy of the amendment and we have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: On page 35, after line 20, insert the following new subsection (m) to read as follows:

"(m)(1) Moratorium on the use of the social security account number. —no Federal agency, or any State or local government acting in compliance with any Federal law or federally assisted program, shall deny any individual any right, benefit, or privilege provided by law by reason of such individual's refusal to disclose his social security account number.

"(2) This subsection shall not apply—

"(A) with respect to any system of records in existence and operating prior to January 1, 1975; and,

"(B) when disclosure of a social security account number is required by Federal law.

"(3) No Federal agency, or any State or local government acting in compliance with any federal law or federally assisted program, shall use the social security account number for any purpose other than for verification of the identity of an individual unless such other purpose is specifically authorized by Federal law."

And, re-letter the succeeding subsection accordingly.

Mr. GOLDWATER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I offer this amendment dealing with the use of the social security number in an attempt to bring it into proper perspective and to, in essence, put limitations upon its further use.

Every major report on the subject of personal privacy and the collection, maintenance, use and dissemination of personal information has expressed concern for the ever-growing use of the social security number as a universal numeric identifier. Almost without exception they sight the threat the unrestricted universal numeric identifier poses to the freedom and privacy of individuals. Private citizens resent the use of this number as an arbitrary precondition to the receipt of services, privileges, and benefits that are essential to their daily lives and activities. The average citizen finds the use of the number dehumanizing and threatening. Even the widely cited report of the Secretary of HEW—entitled "Records, Computers, and Rights of Citizens"—notes that there is no statutory authority for the ever-growing use of this number as an identifier. They point out that the average citizen has no legal remedy for such a use of the number. The report notes that the universal use of a numeric identifier permits the linking of files and the tracing of a person from cradle to grave. A soon to be published report — "Roscoe-Pound-American Trial Lawyers Foundation Report"—notes the negative psychological impact that has resulted from the unregulated use of this number.

In most cases, the use of this number has been resorted to in the name of efficiency. Little concern has been given for the human impact such a practice has. Everything distinctive, individual, or superior in terms of quality of a man's mind is not relevant. Everything centers on the quantitative, down with qualitive dimensions or values. The use of this number has removed the individual from the modern personal information transaction process. Records are exchanged without his knowledge and occasionally to his serious detriment. Errors are perpetuated and integrated with new records. And all of this is occurring because of administrative decisions which never analyze the larger implications of the use of the number. Simply put, the use of the number has not been subjected to the aggressive give and take that occurs in a legislative form.

Originally, the discussion draft of H.R. 16373 contained language prohibiting the further use of the social security account number as a universal numeric identifier. Objections were raised to that language. The objections centered on the following concerns:

First, outright prohibition would necessitate a total revamping of all Federal record systems at tremendous cost.

Second, outright prohibition is not consistent with all the best interests of citizens as it would cause chaos in many Federal programs.

The amendment I offer today remedies these problems. My amendment does the following things:

First, prohibits the denial of rights, benefits, or privileges provided by law if a citizen refuses to disclose his social security number, with the following exceptions:

The amendment exempts all systems in existence and operating prior to January 1, 1975, and would not apply when the Congress authorizes the use of the number.

The amendment restores to Congress the control over use of the number.

This amendment will fill important voids in the current legislation. It sights a reasonable, basic compromise between the right of a citizen to protect his privacy and the need of the Federal Government to be a proper and effective servant.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I want to commend the gentleman for offering this amendment, the principle of which was certainly intended by the committee, but the gentleman's amendment removes any ambiguity.

I want to commend the gentleman for his diligent work, cooperation, and assistance to the subcommittee and the full committee. As far as we are concerned on this side, we will accept the amendment.

Mr. GOLDWATER. I thank the gentleman from Pennsylvania.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to my colleague from California.

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

Mr. LAGOMARSINO. Mr. Chairman, I would like to commend the gentleman for his amendment, and assure him of my support. I would also like to commend him for his work on the general subject.

Mr. Chairman, last year a Presidential Executive order was issued allowing the Department of Agriculture to inspect the individual tax returns of 3 million farmers—for the alleged purpose of compiling mailing lists and statistical information.

Although that order was eventually rescinded after widespread public indignation, it is a good example of the type of abuse we are trying to prevent with this bill. Not every Member of this House has a large agricultural constituency, but I ask the Members to consider that if the Department of Agriculture can obtain individual tax returns of 3 million farmers by the device of an Executive order, how many other agencies can get the individual tax returns of housewives, or barbers, or truckdrivers, on the same flimsy excuse of a need for mailing lists.

The law provides that tax returns are confidential, and the information they contain is not to be disclosed without permission. Given the events of the past few years, when tax returns become weapons to be turned against individual citizens or to punish political foes, I wonder how on Earth we can expect the ordinary citizen to comply with our income tax laws. Our system of taxation, in which we ask the individual to personally report his income and compute his tax due, relies heavily on the voluntary cooperation and basic honesty of the individual. In this respect, it is perhaps unique in the world.

Where else would you find an entire nation of people willing to report the most intimate details of their income and expenditures every year? If we had to resort to the European system of taxation, where an inspector comes by to check on your wealth and living situation, or if we had to make a detailed check of the basic facts of every income

tax return filed in this country, we would be spending as much collecting this tax as we gain from it. Yet our entire system of taxation is based on the Government's assurance that individual tax returns will remain confidential—an assurance which we have seen is not always truthful.

We all remember the story of the golden goose. Well gentlemen and ladies, if we are not careful, we are going to kill the golden goose. If we do not act now to insure the confidentiality of Government records, including private income tax returns, no one will ever again tell the truth to their Government. We have come dangerously close, I believe, to exhausting the reservoir of good will and basic honesty of the people toward their Government. If we are not honest with the public, the public will not be honest with us. One way we can assure the people that we will honor our commitments of confidentiality whenever we ask for necessary information, is to pass this bill.

Mr. Chairman, over 2,400 years ago, the Greek leader Pericles proclaimed one of the signs of a free society to be "mutual toleration of privacy." The right of privacy finds expression in both the English Magna Carter and the U.S. Bill of Rights. I believe it is time for us to lend substance to those guarantees with a statute such as the one before us today. This bill will not hamper the operation of Government, it will only make it work better, because the individual citizen will be more willing to cooperate if he knows that his privacy will remain protected. For the sake of good government, and for the sake of the people we serve, I urge an "aye" vote on this bill.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

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

Mr. KOCH. Mr. Chairman, I want to commend the gentleman, my good friend from California. He has led the fight to prevent the establishment of a universal identifier number. To see that fight successfully concluded on the floor today must give him a great deal of pride and pleasure. I take pride and pleasure in his success and in having worked with him on this legislation.

Mr. GOLDWATER. I thank my friend for his support in this effort, and I urge adoption of the amendment.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the subcommittee, in considering the drafting of this bill, did consider taking under advisement whether we should include the prohibiting of a universal numeric identifier. Of course, the social security number is the most commonly used universal numeric identifier.

The problem is that to my knowledge—and I think to the knowledge of the subcommittee—there has been no study as to how many local governments or private agencies or, even, for that matter, Federal agencies, which use the universal numerical identifier or the social security number. We are not certain what effect this sort of amendment would have. I know, for instance, it is quite customary to use the social security number as the identifier on State driver's licenses. Just what effect this amendment would have, I do not think we really know, and I do not think we should pass it without knowledge. I think it would be a mistake to do this, before hearings have been held to get the facts on which to base action.

One part of the amendment would allow an exception for systems of records in operation prior to January 1, 1975. That means if a new system were to be adopted by a State or local government, it might be wholly incompatible with an existing system which is the subject of the exemption. I think we would be acting without sufficient knowledge if we were to adopt the amendment now.

I think we all want to be known by our names rather than by number so-and-so. Certainly the purpose of this amendment is worthy, but I am afraid we are acting now out of emotion rather than knowledge. We have not had any hearings on which to base action on this amendment; therefore, I think the proposal should be defeated. We should hold hearings on this subject in the near future.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

Mr. COLLIER. Mr. Chairman, I move to strike the requisite number of words.

I do so only for one question, if I may.

Throughout the bill, the word "agency" is used, and I would like to know whether or not the word "agency" is interchangeable with the word "commission" throughout the bill.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. Yes, I yield to the gentleman.

Mr. ERLENBORN. As I understand the gentleman's question, it is whether regulatory commissions would be considered agencies?

Mr. COLLIER. As well as any duly appointed commissions that were authorized by the Congress, whether through Congress or through Executive appointment.

Mr. ERLENBORN. The definition of the word "agency" would be contained in the basic Freedom of Information Act, and this is the amendment to the Freedom of Information Act. My recollection is that the word 'agency" defined in the act would include regulatory commissions.

Such things as study commissions, interim study commissions, or short-term study commissions, I do not believe they would be.

Mr. COLLIER. They would be excluded, notwithstanding the fact that they contain, in many instances, substantial confidential records of a personal nature?

Mr. ERLENBORN. This is only my recollection, without having a copy of the law before me. I think regulatory commissions would be included within the definition, something like the President's Commission on Population Growth in America, on which I served.

Mr. COLLIER. That is not included?

Mr. ERLENBORN. I do not believe that is included within the definition.

Mr. COLLIER. I thank the gentleman.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 23, after line 25, insert the following:

"(9) pursuant to the order of a court of competent jurisdiction."

Mr. BUTLER. Mr. Chairman, this is an amendment to the section of the bill dealing with conditions of disclosure. It is introduced for the purpose of making it perfectly clear that a lawful order of a court of competent jurisdiction would be an appropriate condition of disclosure.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the gentleman has discussed his amendment with us, and we find no objection to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 26, line 17, after the word "disclosure", strike out the period and add the following: "; and (5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding."

Mr. BUTLER. Mr. Chairman, this amendment is directed to the section dealing with access to records. It is introduced for the purpose of making it perfectly clear that an investigation of an accident or other procedures incident to problems of that nature will not be subject to inquiry or access under this section.

The amendment says:

Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, again the gentleman has been good enough to discuss this amendment with us, and we find no objection to it.

However, I would ask the gentleman this: What does he contemplate concerning the third amendment we discussed?

Mr. BUTLER. Mr. Chairman, I do not intend to introduce the third amendment the gentleman refers to.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman.

We have no objection to the amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, as I understand it, the purpose of the amendment is to protect, as an example, the file of the U.S. attorney or the solicitor that is prepared in anticipation of the defense of a suit against the United States for accident or some such thing?

Mr. BUTLER. That is the subject we have in mind.

Mr. ERLENBORN. I appreciate the gentleman's concern. I think it is a real concern, and that protection ought to be afforded.

The only problem I find with that amendment is this: It would presuppose we intended the defining of "record system" to preclude that type of record. I do not think we did.

If these sorts of records are to be considered a record system under the act, then the agency would have to go through all the formal proceedings of defining the system, its routine uses, and publishing in the Federal Register.

Frankly, I do not think the attorney's files that are collected in anticipation of a lawsuit should be subject to the application of the act in any instance, much less the access provision. It is our concern in the access provision that it may then presuppose it is covered in the other provisions, and I do not think it should be.

Mr. BUTLER. Mr. Chairman, I share the gentleman's concern. When this amendment was originally drafted, it stated "access to any record" and we struck the word, "record," and inserted "information."

So we made it perfectly clear we were not elevating an investigation with the word, "record," to the status of records. We did want to make it clear there was not to be such access, because that access would be within the usual rules of civil procedure.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, it is the gentleman's contention, under his interpretation of the act, that the other provisions would not apply to the attorney's files as well; is that correct?

Mr. BUTLER. The gentleman is correct.

Mr. ERLENBORN. I wonder if the gentleman would ask the gentleman from Pennsylvania (Mr. MOORHEAD) what his opinion is concerning that, just to clarify the record.

Mr. BUTLER. Mr. Chairman, I will yield to the gentleman from Pennsylvania for that purpose.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I agree with the limitation which has been placed on the amendment by the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ABZUG: Page 33, line 3, strike out lines 3 and 4.

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Ms. ABZUG. Mr. Chairman, we are dealing in this bill before us today with the right to privacy and any exemption from the safeguard provisions of this bill must be the exception rather than the rule. It should be justified only where there are overwhelming societal interests.

What are the overwhelming interests of society that this exemption protects which would justify an infringement on individual liberty?

Under other exemption provisions of this bill, we have already protected from disclosure information related to law enforcement investigative matters and national security.

I have agreed to support such specific exemptions. But the general exemption as to all records, regardless of what they contain, maintained by the CIA, goes too far. By allowing the CIA to exempt all systems of records, even those which contain no sensitive data, we are unnecessarily denying individuals the rights guaranteed by this bill and indeed rights guaranteed by the Constitution.

There is grave danger inherent in granting any such broad exemption. No agency should be given a general license to exempt any and all of its records or record systems.

Rather than base exemptions on the functions of an agency which maintains records, we should define exemptions, as we tried to in this bill, in terms of the kind of data sought to be protected from disclosure. We have done this in subsections (k) and (l)(1), and (2) of the bill.

If the records of the CIA contain sensitive material, these records will be protected from disclosure by the specific exemptions already referred to, information related to either foreign policy or national defense or related to investigatory material which is being compiled for law enforcement purposes.

We would weaken this bill if we established a precedent by allowing an agency to exempt itself entirely from requirements that would protect and reenforce the fundamental constitutional rights of privacy.

By setting up a general exemption guaranteeing and allowing the CIA to exempt even sensitive records from virtually every provision of the bill, the bill goes far beyond what is necessary to protect such records from disclosure. Why should not the agency be required, for example, to keep records which are accurate, timely, and relevant, which are requirements of this bill?

Why should the agency be exempted from a bar against maintaining political or religious data if other agencies are not, and why should individuals be denied rights to civil remedies and court review?

This is the effect of the "general exemption" section of the bill, which goes far beyond the "specific exemption" section in allowing agencies to disregard the safeguard provisions of the bill.

I might tell the Members that the other body's bill does not contain any such general exemption section. It provides solely for specific exemptions, with only two of the specific ones we have, by the way, and that is for national security and law enforcement purposes.

I urge that we strike this general exemption for the CIA since the CIA's sensitive records and activities are amply protected by other provisions of this bill.

To do otherwise would be to deny unnecessarily to one group of individuals the privacy rights protected by this bill.

Mr. Chairman, I urge that my amendment be adopted.

Mr. GUDE. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. Yes, I yield to the gentleman from Maryland.

Mr. GUDE. I want to commend the gentlewoman for this amendment.

Certainly, there is no logic in gathering information, and regardless of its sensitivity, putting it off bounds merely because it happens to be stored within a particular agency.

The gentlewoman's amendment makes a great deal of sense, and I certainly urge its adoption.

Mr. KOCH. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from New York.

Mr. KOCH. I also want to commend the gentlewoman from New York, who has pointed out this particular deficiency of this legislation, which I hope will be corrected.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are many reasons why I would oppose this amendment.

I think it is quite obvious that the activities of the Central Intelligence Agency are not the sort of activities that are supposed to be conducted in a fishbowl.

Let me make this one observation. Under this bill we are allowing any individual access to records that are maintained by the Government relative to himself. In other words, any person, any individual can go to the agency that is subject to this act and say, "I want copies of anything that you have relating to me."

In the committee we discussed whether we would extend this right to corporations. We decided we would not; we would grant it only to individuals.

We did not limit this access to U.S. citizens.

Just stop and think about this for a moment. The Central Intelligence Agency prepares and maintains files relative to people all over this country who are our potential or actual enemies.

We are not limiting access, under this law, to citizens so that Chou En-lai or whoever it might be could come over here and knock at the door of the CIA and say, "Under the new privacy bill, I want to see all the files that you have maintained concerning me."

I think this situation would be utterly ridiculous. The amendment ought to fall of its own weight.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

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

Ms. ABZUG. Mr. Chairman, I just want to refresh the recollection of the gentleman from Illinois about who is covered under this bill. We have a very specific definition of individuals who are granted rights under this bill and I will quote from subsection (a)(2)—Such an individual "means a citizen of the United States or an alien lawfully admitted for permanent residence." As far as I know Chou En-Lai is not a citizen of the United State or an alien lawfully admitted for permanent residence. This is just another big, big red herring.

Mr. ERLENBORN. Then maybe it would be the Ambassador of Russia; who is to say? The fact is, we ought not limit the United States to carrying on the activities of the Central Intelligence Agency in such a way that its files are kept under cellophane.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I realize that there are people in this country who have a great antagonism to the CIA. I might say that back in 1947 this committee handled the legislation that established the CIA in the Defense Department bill.

We are in a dangerous world, and other countries of the world are using all the methods that they can develop for the collection of information which happens to be favorable to their objectives. Many times those objectives do not coincide with the objectives of this country, so that we, likewise, in order to protect ourselves, are collecting information on these people overseas, or the emmisaries who come into this country if it deals with the national security of the United States. I believe that the better part of valor right now is to leave this alone.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I would just like to refresh the recollection of the gentleman from California, and since he is my honorable chairman I hesitate to do this, but, nevertheless, I have pointed out that the bill provides in section (k)(1)(2) for an exemption of anything which would in any way affect the national defense or foreign policy of this Nation, so that any of the national security or foreign policy records about which the gentleman from California has expressed some concern would be amply covered. No information which in any way affects the national security or foreign policy of this Nation could, under the specific provisions of section (k) of this act, be made available.

My objection to this general blanket exemption for the CIA is that there is much information, and I am sure the gentleman from California would agree with this, that the CIA collects about individuals that is totally unrelated to the national security functions of the CIA.

Mr. HOLIFIELD. I do not know that. I am not in possession of that knowledge.

Ms. ABZUG. Even if that were not so, if an individual seeks access to his or her records and the CIA makes a determination or the agency makes a determination that access to those records would endanger our national security, then the agency would have the right to assert that reason for not providing access to the information.

All I am suggesting is that to single out one agency and exempt all its records, just because it is this agency, is quite contrary to what our purposes are, and to what our intentions are in this bill. I might also mention that the legislation in the other body has only the specific exemptions that I mentioned before. A blanket exemption for any agency—even or especially this one agency has no place in this bill.

Mr. HOLIFIELD. Mr. Chairman, let me add that this agency is charged with the security of the United States in relation to its foreign policy, and therefore important to the United States. The agency does collect information on people who are emissaries from those nations that are here, and are acting in behalf of other nations, and I just do not believe that anyone has the right or should have the right to go in and expose the most sensitive area in the protection of our national security. Therefore I must oppose the amendment.

I think we are going pretty far in this bill, and I think this is just a little bit too far.

Mr. DELLUMS. Mr. Chairman, I would like to make a point of order, and I do so because I think this matter is of such importance and such gravity that it should not be disposed of by a handful of Members, and I note that there is not a quorum present on the floor.

Therefore, Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. McFall). One hundred and four Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Pennsylvania (Mr. Moorhead).

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

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from New York (Ms. Abzug). I do so with considerable regret, because of the great contribution that the gentlewoman has made in the drafting of this legislation. The gentlewoman was one of the authors of the original privacy legislation we considered. But I think in this legislation we must take a step at a time in a delicate field like that involving the Central Intelligence Agency.

Let me explain to the Members that the CIA is not entirely exempt under this bill. The agencies listed under general exemptions are affirmatively subject to the major disclosure and the requirement section of the act. The CIA must follow the conditions of disclosure, or I should say nondisclosure, as enumerated in subsection (b) of the bill. This is a major provision of the bill with which the Agency must be in compliance—with what the Agency may or may not do with their records.

The CIA is also subject to subsection (e)(2), (A) through (F) to publish in the Federal Register at least annually a notice of the existence and character of each system of records. Thus, even under the general exemption sections, they must do this.

This covers two unique circumstances: First, the Central Intelligence Agency maintains various intelligence systems, as defined by the act. Those systems maintained by the CIA are primarily personnel records. By statute the Central Intelligence Agency is prohibited from releasing any detailed information on its personnel.

The committee does not feel it should repeal other statutes by implication. Let me say also that there was an earlier colloquy between the gentlewoman from New York and the gentleman from Illinois about who is covered by the act.

On page 21, line 14, in the definitions:

The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence . . .

So, Mr. Chairman, I urge the defeat of the amendment.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I am very disappointed that the gentleman from Pennsylvania has to rise in opposition to my amendment. I disagree with him. I think this exemption is really out of line with the original purpose of the bill.

I had no recollection, by the way, Mr. Chairman, that the CIA ever requested this exemption, certainly not since the bill was clarified to apply only to citizens and permanent residents.

Although the gentleman has indicated what provisions the CIA, as an agency, might be subjected to, he has neglected to mention the more significant and meaningful provisions it will not be subjected to as a result of having its general exemption. I have already mentioned some of those basic provisions, such as the requirement of agencies to maintain accurate, relevant, and timely date, and I will not respect them all here.

There are many others such as this, so I do not think it is fair, even though the gentleman may oppose my amendment, for him, to suggest that a general exemption doesn't deprive individuals of basic rights provided by the act. In fact, one very seriously deprived group of individuals will be those on whom the CIA

may be keeping records which have nothing at all to do with the security of this Nation.

Mr. ECKHARDT. Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, I should like to clarify that other provisions of this bill fully take care of questions having to do with security. The bill provides two types of exemptions: First the general exemption of agencies. In fact, only one agency is generally exempted, the Central Intelligence Agency. This is in subsection (j), "General Exemptions."

But in (k), "Specific Exemptions," it is provided on page 34, item (1) that the records within the agency are exempted from this section if the system of records is, (1) subject to the provisions of section 552(b)(1) of this title."

Now, 552(b)(1) of this title is found in the present act, and what that says is:

> This section does not apply to matters that are, (1) specifically required by Executive order to be kept secret in the interests of the national defense or foreign policy."

Executive Order 652, issued on March 8, 1972, and effective on June 1, 1972, exempts 37 agencies with respect to all matters having to do with national defenses or foreign policy. It includes, of course, the CIA. It includes the Atomic Energy Commission. It includes the State Department; it includes the Department of Defense; it includes the Justice Department.

I cannot see, for the life of me, why the CIA should be generally exempt from all provisions having to do with access if these other agencies, just as sensitive, are not also generally exempt. They deal with just as sensitive material in the area of national security as the CIA does. The point is, though, if we generally exempt the CIA from access, then the CIA does not have to come out and say that if they revealed the information, that they refuse access to, it would affect national defense or foreign policy, that it has to do with the security of the United States.

I happen to know of a case in which an employee of the CIA has been shabbily treated. I think the particular case did not have to do with security. It had to do with a girl. Some boss did not much like an inferior officer seeing her. But I shall not assert that as a fact here but as a hypothetical illustrating the evil of giving the CIA complete exemption from access provisions of this Act. The CIA can come in and say at any time, "This affects foreign affairs." But let us, at least, make them say that, because many people working for the CIA are subject to exactly the same discriminations as those working for other agencies. The CIA is going to be believed when they raise the contention that foreign affairs are affected, but at least let us make them come in and say it. Presumably, there would be some reluctance to lie about it. But if all they have to say is, "We are blanketly exempt from any access to the information which you seek," we are absolutely protecting them in matters in which the grossest discrimination could occur.

Let me just say once again that I am not talking in favor of opening up access to CIA's files with respect to matters of security, because the second exemption, the specific exemption provisions provided for in this act, refers to 552(b)(1). That says that nothing may be obtained which the Executive order requires to be kept secret in the interest of national defense or foreign policy and an Executive Order 652 has been issued and totally, blanketly covers all such matters pertaining to national defense and foreign policy.

The CHAIRMAN pro tempore (Mr. MCFALL). The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: On page 34, strike lines 7 through 11 and insert the following in lieu thereof:

"(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence."

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

Mr. ICHORD. Mr. Chairman, again I wish to commend the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Illinois (Mr. ERLENBORN), as well as the members of the committee and the staff, for the very superb job they have done in balancing the rights of the individual against the rights of society in general and protecting the privacy of the individual.

All this amendment does is to protect the investigatory material of investigating agencies such as the FBI from being raided by thousands and perhaps tens of thousands of persons for no legitimate purpose.

I explained the amendment in general debate, and, Mr. Chairman, the language of this amendment has been worked out in conjunction with the managers of the bill, the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Illinois (Mr. ERLENBORN).

The purpose of this amendment is to protect our investigative agencies from activities which I do not believe is an exaggeration to say might seriously impair if not destroy their function in carrying out their vital work. The amendment would both protect this work and, at the same time, do so consistently with the attainment of the purposes and objectives of the bill. The provisions of the bill, particularly subsection (b), provides complete and adequate protection against improper or injurious dissemination of information beyond the legitimate uses of the Federal agencies maintaining them. My amendment in no way affects this laudable purpose, or those provisions against disclosure which fully protect the individual affected by prohibiting any improper use of investigatory material.

All that the amendment does is to protect the investigatory material from being raided by thousands and perhaps tens of thousands of persons for no legitimate purpose. I assure the Members that the investigative materials would be raided by the host of persons, including subversives, who would merely seek to ascertain the extent of coverage and method and adequacy of operation of our intelligence forces. This improper raiding of the investigatory files will be prohibited by my amendment, but at the same time individuals who have the legitimate need and purpose for the disclosure to them of the information is preserved. The amendment provides that in any case where an individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, as a result of the maintenance of such material, he will be entitled to the information, to the extent, of course, that the identity of confidential sources will be protected.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I understand that this amendment is also subject to the colloquy we had in general debate concerning protection of dissenters under the first amendment; is that correct?

Mr. ICHORD. The gentleman is correct. This is meant in no way to harm the first amendment rights of any American.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, with that understanding, I have no objection to the amendment.

The CHAIRMAN pro tempore (Mr. MCFALL). The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: Page 36, line 6, after the period, insert the following:

"(n) Federal Privacy Commission

"(1) Establishment of Commission—

"(A) There is established as an independent agency of the executive branch of the government the Federal Privacy Commission.

"(B)(i) The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate, from among members of the public at large who, by reason of their knowledge and expertise in any of the following areas: civil rights and liberties, law, social sciences, and computer technology, business, and State and local government, are well qualified for service on the Commission and who are not otherwise officers or employees of the United States. Not more than three of the members of the Commis-

sion shall be adherents of the same political party.

"(ii) One of the Commissioners shall be appointed Chairman by the President.

"(iii) A Commissioner appointed as Chairman shall serve as Chairman until the expiration of his term as a Commissioner of the Commission (except that he may continue to serve as Chairman for so long as he remains a Commissioner and his successor as Chairman has not taken office). An individual may be appointed as a Commissioner at the same time he is appointed Chairman.

"(C) The Chairman shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present (but the Chairman may designate an Acting Chairman who may preside in the absence of the Chairman). Each member of the Commission, including the Chairman shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman) shall be the official spokesman of the Commission in its relations with the Congress. Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct.

"(D) Each Commissioner shall be compensated at the rate provided for under section 5314 of title 5 of the United States Code, relating to level IV of the Executive Schedule.

"(E) Commissioners shall serve for terms of three years. No Commissioner may serve more than two terms. Vacancies in the membership of the Commission shall be filled in the same manner in which the original appointment was made.

" F) Vacancies in the membership of the Commission, as long as there are three Commissioners in office, shall not impair the power of the Commission to execute the functions and powers of the Commission.

"(G) The members of the Commission shall not engage in any other employment during their tenure as members of the Commission.

"(2) Personnel of the Commission—

"(A) The Commission shall appoint an Executive Director who shall perform such duties as the Commission may determine. Such appointment may be made without regard to the provisions of title 5, United States Code.

"(B) The Executive Director shall be compensated at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(C) The Commission is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this section.

"(D) The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Functions of the Commission. The Commission shall—

"(A) publish annually a United States Directory of Information Systems containing the information specified to provide notice under subsection (e)(2) of this section for each information system subject to the provisions of this section and a listing of all statutes which require the collection of such information by a Federal agency;

"(B) investigate, determine, and report any violation of any provision of this section (or any regulation adopted pursuant thereto) to the President, the Attorney General, the Congress, and the General Services Administration where the duties of that agency are involved, and to the Comptroller General when it deems appropriate; and

"(C) develop model guidelines for the implementation of this section and assist Federal agencies in preparing regulations and meeting technical and administrative requirements of this section.

"(D) In addition to its other functions the Commission shall—

"(i) to the fullest extent practicable, consult with the heads of appropriate departments, agencies, and instrumentalities of the Federal Government in carrying out the provisions of this section;

"(ii) perform or cause to be performed such research activities as may be necessary to implement the provisions of this section and to assist Federal agencies in complying with the requirements of this section;

"(iii) determine what specific categories of information should be prohibited by statute from collection by Federal agencies on the basis that the collection of such information would violate an individual's right of privacy.

"(4) Confidentiality of Information—

"(A) Each department, agency, and instrumentality of the executive branch of the Government, including each independent agency, shall furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(B) In carrying out its functions and exercising its powers under this section, the Commission may accept from any Federal agency or other person any identifiable personal data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall provide appropriate safeguards to insure that the confidentiality of such information is maintained and that upon completion of the purpose for which such information is required it is destroyed or returned to the agency or person from which it is obtained, as appropriate.

"(5) Powers of the Commission—

"(A) The Commission may, in carrying out its functions under this section, conduct such inspections, sit and act at such times and places, hold such hearings take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, correspondence, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by the Chairman and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

"(i) In case of disobedience to a subpena issued under subparagraph (A) of this subsection, the Commission may invoke the aid of any district court of the United States in requiring compliance with such subpena. Any district court of the United States within the jurisdiction where such person is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Commission, issue an order requiring such person to appear and testify, to produce such books, records, papers, correspondence, and documents, and any failure to obey the order of the court shall be punished by the court as a contempt thereof.

"(ii) Appearances by the Commission under this section shall be in its own name. The Commission shall be represented by attorneys designated by it.

"(B) Section 6001(1) of title 18, United States Code, is amended by inserting immediately after "Securities and Exchange Commission," the following: "the Federal Privacy Commission."

"(C) The Commission may delegate any of its functions to such officers and employees of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may deem desirable.

"(D) In order to carry out the provisions of this section, the Commission is authorized—

"(i) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel;

"(ii) to adopt, amend, and repeal interpretative rules for the implementation of the rights, standards, and safeguards provided under this section;

"(iii) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (51 U.S.C. 5);

"(iv) to make advance, progress, and other payments which the Commission deems necessary under this section without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

"(v) receive complaints of violations of this Act and regulations adopted pursuant thereto; and

"(vi) to take such other action as may be necessary to carry out the provisions of this section.

"(6) Reports—

"The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this section."

Mr. GUDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. GUDE. Mr. Chairman, this amendment establishes a Federal Privacy Commission which is a vital necessity if privacy legislation is to become a meaningful statute. Clearly the key to the maintenance of successful privacy standards will be the degree of cooperation provided by federal agencies which have to implement the program. This Commission, which would coordinate and assist in those efforts, will be an important tool for gaining the necessary agency cooperation.

The Commission would be composed of five full time members appointed by the President with the advice and consent of the Senate. The functions of the Commission would be to:

First, publish annually a Directory of Information System containing data on Federal agency information systems and the statutes which require the collection of information;

Second, investigate and report agency violations of this section of the bill;

Third, develop model guidelines and provide assistance to federal agencies for the implementation of this section;

Fourth, provide consultation and research services to aid agencies in carry-

ing out the provisions of this section; and

Fifth, determine what categories of information Federal agencies should be forbidden to collect.

To fulfill these responsibilities the Commission would have rulemaking authority, the power to hold hearings, administer oaths and receive evidence, including complaints of violations of provisions of the Act, and subpena power. Additionally the Commission could gain access to any agency information system and any identifiable information, so long as appropriate safeguards are maintained to insure confidentiality.

The Commission's powers are more limited than those provided in other earlier proposals. For example, its activities are limited to concern with the provisions of this act and not any other freedom of information legislation; and it will not be able to issue orders directing an agency to comply with the requirements of the act. However, the Commission will serve as a focus of attention for information and privacy issues and will also be a watchdog over agencies which are responsible for implementing the provisions of the act.

In my view, this Commission would be an essential element in the implementation of privacy legislation. As the bill presently reads, it contains no provision for the establishment of an administrative body to oversee implementation of the legislation. I know some say we should take a "wait and see" attitude about a privacy commission.

However, such a "wait and see" attitude is exactly the opposite of what is needed, because the major problems of implementation and the inevitable adjustments in the ways agencies work are going to occur at the beginning of the program, not later on. At a minimum, this Commission should be established to oversee, monitor, and evaluate the newly legislated safeguard requirements and to offer information and assistance to Federal agencies in their efforts to comply with the act. As with any new program, there will be problems and these problems will occur in the beginning when the program is being set up. A central source of expertise and guidance and a coordinated approach to these problems should serve to reduce rather than increase administrative costs over the long run.

Moreover, we would be more than naive if we failed to recognize that individual Federal agencies cannot be expected to take an aggressive role in enforcing privacy legislation. Enforcement of the provisions of this bill will be secondary to each agency's legislative mandate and will, of necessity, cause some inconvenience. I believe it is clear that making administration of privacy standards every agency's responsibility really means making it no agency's responsibility. Only by providing a separate independent agency to act as a focus for privacy activities and concerns and for coordinating the privacy programs of the various Federal agencies can we be assured to uniform effective enforcement of the rights guaranteed by this bill.

Mr. Chairman, this Commission is very much in the interest of getting legislation which affects the privacy of all American citizens and specifically Federal employees. I very much hope and urge that the committee will adopt this amendment.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

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

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to this amendment with great regret, because the gentleman from Maryland was one of the most productive members of the subcommittee in helping draft this legislation.

I do have to oppose the amendment, first, because it was considered in subcommittee and voted down. Second, it was considered in the full committee, and it was voted down.

I can understand why the gentleman from Maryland asked unanimous consent to dispense with the reading of the amendment, because it is a long, three-page amendment. It is really a bill in and of itself.

I do oppose this amendment to create a Federal privacy commission for a number of important reasons.

First, as I say, it was voted down at the markup session. It was overwhelmingly defeated.

Second, it would add to the overall cost of the bill and create another level of bureaucracy between the citizen and the Federal agency and his right to his own personal records.

Third, it could impede the operation of the various civil remedies afforded to individual Americans in the courts.

Fourth, as President Ford stated in his remarks referred to earlier in the debate:

> I do not favor establishing a separate commission or board bureaucracy empowered to define privacy in its own terms and to second-guess citizens and agencies.

It seems to me that it would be better to have an independent branch of the Government, that is, the judicial branch, oversee the Executive rather than another branch of the executive overseeing the Executive.

Finally, if, in this instance, the courts do not do the excellent job they have done under the Freedom of Information Act, then we in Congress can always in the future create a privacy board.

But if we create this commission it will surely develop its own constituency, and be extremely difficult to reverse if we have made a mistake.

Instead, Mr. Chairman, this bill, patterned after the Freedom of Information Act, makes each agency directly responsible, and publicly and legally accountable for its faithful administration of this law. I am sure that the courts will do their duty. Vigorous congressional oversight will also help keep the bureaucracy in line.

I can assure the Members that our committee will fully exercise such authority. Therefore, I urge the defeat of the amendment.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

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

Mr. HOLIFIELD. Mr. Chairman, I am pleased with the statement made by the gentleman from Pennsylvania. As the gentleman has stated, this creates another bureau to watch the watchers, one might say, and it also gives this commission some powers to make recommendations, rules, and regulations on the basis of their judgment rather than upon the basis of the language of the bill, which I think is adequate enough to give the citizens a right.

It also would mean that undoubtedly people who were dissatisfied would go to the commission for relief, rather than to let their wishes be known to the courts, or if they did not want to go to the courts to go to the committee, which will have continuing oversight over this.

This is a committee which has had the interest to hold the hearings, and develop this bill after a great many consultations with people in the Department of Justice and other departments of the Government, and also with representatives of the administration. The President even went out of his way in his message on October 9 to say specifically that we should not create a commission, as the gentleman from Pennsylvania has mentioned.

So, for that reason, as well as others, I think this ought to be voted down. In making that statement, may I add further that I certainly do not want to disparage the attitude or the industry of the gentleman from Maryland (Mr. GUDE), who has been a fine member of our committee.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

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

Mr. ERLENBORN. Mr. Chairman, I join the gentleman from Pennsylvania (Mr. MOORHEAD) in opposing the amendment. I think the gentleman from Pennsylvania has very well articulated the reasons the amendment should be opposed. Therefore, I hope the amendment will be defeated.

Ms. ABZUG. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Ms. ABZUG. Mr. Chairman, I really am somewhat surprised to hear the gentlemen oppose this Commission, since this commission was modeled on a bill, H.R. 4960, which was introduced in February 1973, by Mr. HORTON, and cosponsored by Mr. ERLENBORN, and of course Mr. GUDE, who is the author of the amendment, Mr. HANRAHAN, Mr. MCCLOSKEY, Mr. MOORHEAD, my distinguished chairman, Mr. PRITCHARD, Mr. REGULA, and Mr. THONE. It is basically the same Commission that was proposed in the legislation originated by these gentleman, and I am finding it very difficult to figure out why they have changed their minds.

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. Well, I guess so.

Mr. ERLENBORN. Mr. Chairman, I thank the gentlewoman for her gracious yielding to me.

The bill that the gentlewoman has referred to, of course, was not a privacy commission because we did not have a privacy bill before us at the time, or a privacy act; that was a Freedom of Information Commission.

Ms. ABZUG. I understand it was a freedom of information commission, and the fact is that the same reasons that it was proposed there are the same reasons it was proposed here. I believe we should have a commission which covers both the Freedom of Information Act and this Privacy Act. But this Commission is being proposed by the gentleman from Maryland (Mr. GUDE) only for the privacy act, and there is good reason for this.

For example, the bill which is before the other body, which is the counterpart of our bill, provides for a privacy commission. We are charting an important course and, quite contrary to what my colleagues have suggested, we have not proposed any judicial or quasi-judicial functions for this Commission.

We are not proposing a superagency with enforcement powers over other agencies. Quite to the contrary, what we are doing is suggesting that there be a mechanism established which will help us in the implementation of this very important Privacy Act. One of the specific needs will be to insure that in developing rules and guidelines relating to personal information systems, agencies will have the benefit of some expertise and will achieve some degree of uniformity.

So it will really make it easier and more economical to implement this legislation.

I find it very interesting that it was suggested that we had a full hearing on this matter before our full committee. If I may refresh the recollection of my subcommittee chairman, it is true that we raised it in the subcommittee. It is true it was defeated in the subcommittee. As a matter of fact, when I pointed out that this was patterned after the bill of the members of the committee, they thought they would like to reconsider it. But this amendment was never considered in full committee, because I was interested in helping the bill get to the floor, and I said we would bring these amendments up on the floor instead.

I am a little surprised, if I may have the attention of the Chairman. I was contradicting him, and I thought he should hear me contradict him. It would be impolite of me not to call it to his attention. We certainly did not have action on this in the full committee, but only in the subcommittee. In the full committee, if the Chairman will recall, I yielded to the desire of everyone to bring a bill to the floor, and we said we would bring up amendments on the floor.

As a matter of fact, I had the impression that this amendment would be favorably supported by the ranking members of the committee, as well as the Chairman, when the gentleman from Maryland (Mr. GUDE) proposed it.

If we want to make this bill significantly workable and effective, it needs just such a commission. Without it, there will be confusion; there will be chaos. Each agency will act like a lord making different regulations come about in different ways. This amendment would furnish a mechanism which could really help this act to become effective.

I heartily support this amendment.

Mr. GUDE. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Maryland.

Mr. GUDE. I thank the gentlewoman for yielding.

I want to thank the gentlewoman for her remarks. Certainly there is no Member of Congress who is not aware of the variation of the agencies of the Federal Government as far as their interest in the sensitivity of citizens' rights. We can see some agencies going off in one direction, unconcerned about privacy, and others complying with this bill. We need this commission desperately.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the gentleman from Maryland (Mr. GUDE).

The Federal Privacy Board was incorporated into the original legislation which I first initiated, and I have always supported that Board. I recognize that reasonable people can disagree on any matter, and I recognize the disagreement here. Arguments have been given on both sides, and while I support the Federal Privacy Board, I do not for a moment believe that those who are in opposition do so because they want to weaken the legislation. It is a philosophical matter as to whether or not we want to introduce what some have called another layer of Government.

What I should like to point out to the Members is that whether we call it a Federal Privacy Board and give it independent status, or pass the legislation without the Federal Privacy Board in accordance with the Gude amendment, we must have some kind of a privacy board to regulate what will happen, and the functions of the Federal Privacy Board will be executed probably by OMB. But they will not be able to execute them as well, as efficiently, as ably as a Federal Privacy Board given the powers that the Gude amendment would give to it. I think it is a very important amendment. I am pleased that the Senate has that provision in its bill.

I would hope that ultimately whatever legislation is enacted by both Houses of this Congress we will incorporate this in the Federal privacy bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The question was taken; and on a division (demanded by Mr. GUDE) there were—ayes 9, noes 29.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. KOCH

Mr. KOCH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KOCH: Page 29, line 24, immediately after "subsection" insert "and agency notices published under subsection (e)(2) of this section".

Mr. KOCH. Mr. Chairman, I discussed this amendment with both sides of the aisle and if I understand it correctly it is acceptable to them, so I will not belabor the point. It merely requires that the Office of the Federal Register shall annually compile and publish rules and notices as opposed to rules as now provided in the bill itself.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if the gentleman will yield, we have no objection to the amendment.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, we have no objection.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

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

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

Mr. GOLDWATER. Mr. Chairman, I rise in support of the amendment presented by my colleague from New York (Mr. KOCH). A directory describing each personal information system is a vital tool for the citizen. Without it, he could search fruitlessly for particular data banks among the more than 850 in the Federal Government. We must require the Government to do more than end secrecy about the existence of personal information they keep. We must pull away the cloak of mystery about how to get access to personal files or obtain a copy by mail.

The legislation before us provides only for printing the existence and character of these personal information systems in the Federal Register? This would mean up to 900 different entries could be spread over a 12-month period. Asking individuals to wade through copies of the Federal Register is foolhardy. Simply cataloging agencywide regulations will similarly frustrate the citizen searching for a specific system.

Mr. Chairman, the corrective language proposed by Mr. KOCH will give us the directory of Federal data banks we need and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. KOCH).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ABZUG: Page 34, line 12, strike out line 12 and all that follows through line 14.

Page 34, line 15, change "(4)" to "(3)".

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Ms. ABZUG. Mr. Chairman, I object to this exemption for many of the same reasons that I objected to the general exemption for the CIA. Exemptions should be defined in specific terms and in terms related to the societal interest or public policy to be served.

Yet, here again, we have defined the exemption in terms of the function of the agency rather than in terms of the nature of the records. What sensitiv

data are we seeking to protect by allowing the Secret Service to exempt all its records from the requirements of the bill?

The committee report tells us on page 19 that:

Access to Secret Service intelligence files on certain individuals would vitiate a critical part of Secret Service work which was specifically recommended by the Warren Commission....

This is ridiculous. I read the Warren Commission report. What did it recommend? What it recommended was that there be maintenance of more selective files in a more efficient and sophisticated manner, specifically, for example, by conversion to automatic data processing.

I am not convinced that the maintenance of some 84,000 files—which is the number of files maintained by the Secret Service, according to the Ervin Subcommittee on Constitution Rights report just issued—is any indication that the Secret Service is now doing a better job of "attempting to identify those persons who might prove a danger to the President." The mere size of this group may indicate quite the contrary; but that also is not the point.

Even assuming that these files must be maintained and perhaps there is justification for maintaining some 300 or 400 files I fail to see the connection between this exemption and the Warren Commission recommendations. How would access to one's files interfere with the mandate of the Secret Service?

As a matter of fact, the Ervin Subcommittee on Constitutional Rights made a comment about this and they said that withholding permission for revision of files by individuals concerned would seem to serve no valid purpose. Surely the Secret Service has nothing to gain by maintaining erroneous information that can be corrected by individuals—and that is one of the prime rights under this act. If we are trying to prevent acts of violence, how does disclosure of information defeat that goal? On argument could well be made that such disclosure would, in fact, act as a deterrent.

So before voting on this amendment, it should be clear to all of you that the striking of the proposed exemption will have absolutely no effect on the essential work of the Secret Service, which is the maintenance of accurate and selective files. It will have no effect on its functions. All I am saying is, if there are Secret Service files, as indeed there are, they have enough protection under the exemption provisions of this act. But if there are people's names listed galore, as we know there are in their files, because they said they disagreed with what somebody in Government said, they have a right to know what cranks are making statements against them. They have a right to correct their files. They have a right to know whether their privacy is being invaded.

I think it is shocking that we should take a particular agency and give it a blanket exemption, when there is ample protection under the act. We are again sacrificing basic individual rights of privacy for some strange reason that is mumbo-jumbo.

If one mentions the CIA, he cannot do a thing. If one mentions the Secret Service, he cannot do a thing. It is time we stopped this mindless mentioning of agencies and accomplish the real purposes of this bill.

I urge support of my amendment.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment would strike the specific exemption provision on page 34, lines 12 through 14, of the protective services of the President of the United States.

This does not exempt particularly from the operation of the bill the maintenance of these records. The sections that could be under regulations exempted are (c)(3), (d), (e)(1)(2) (G) and (H).

Now, if I am interpreting this correctly, and I think I am, this still would require an identification of the system under section (e)(1), lines 11 through 24.

That would require that in the Federal Register the following things be published:

"(A) the name and location of the system;

"(B) the categories of individuals on whom records are maintained in the system;

"(C) the categories of records maintained in the system;

"(D) each routine purpose for which the records contained in the system are used or intended to be used, including the categories of users of the records for each such purpose;

"(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

"(F) the title and business address of the agency official who is responsible for the system of records;

That means that many of the provisions of the act, and I think also including the prohibition of transfer to other agencies, except for those purposes that have been identified as routine uses, will be applicable to these records.

I think the only real harm we could envision would be transfer of this information to some other agency where the person would be harmed in his application for employment or some other right or privilege under the laws of the United States.

Since these other provisions are still applicable to the system, I think that the specific exemption here providing that access not be made available to the persons who are named in the system is a valid exemption, one that is necessary. It falls under the same general category of law enforcement where we already have an exemption. Therefore, I think the amendment should be defeated.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

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

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, there is much of the criticism of the Secret Service by the gentlewoman from New York that is correct. The list of the protective service by the Secret Service has gotten too broad. It does contain names of people who are not a real threat, but merely dissidents exercising the American right of dissent.

But, on the other hand, the list also contains the names of people who are a real threat, and they contain informers and information about the techniques of protection. We have to recognize that in this day and age, unfortunately, assassination, holding hostage and killing has become too prevalent so that an amendment which completely eliminates the secrecy of the legitimate protective right of the Secret Service just goes too far.

As I have discussed with the gentleman from Illinois (Mr. ERLENBORN) and as we have said to the gentlewoman from New York (Ms. ABZUG), we intend to hold a hearing and hold the feet of the Secret Service to the fire to weed out and make this list really something small so that they can be effective. If it is a broad list, it really does not do the job we want to have done to protect not only the President, but other officers of the Government and visiting dignitaries.

It seems to me that the amendment goes too far. We cannot be sure they would be exempt under other exemptions, and I think the correct way to proceed, as I have promised, is to hold intensive, hard-hitting hearings next year.

I would ask the gentleman from Illinois if, as he told me in private, he would cooperate fully in this endeavor.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

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

Mr. ERLENBORN. Mr. Chairman, I agree with the gentleman, and I hope we will hold those hearings early in the next Congress.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman, and I urge the defeat of the amendment.

The CHAIRMAN pro tempore (Mr. BRADEMAS). The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The amendment was rejected.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before the Committee rises, I wish to summarize briefly the present situation on the privacy bill. On October 9, President Ford issued a statement, which I include at this point in the RECORD, endorsing H.R. 16373, the Privacy Act of 1974:

STATEMENT BY THE PRESIDENT

Legislation to protect personal privacy is making significant progress in the Congress. I am delighted about the prospect of House and Senate action at this session.

Renewed national efforts to strengthen protections for personal privacy should begin in Washington. We should start by enacting uniform fair information practices for the agencies of the Federal government. This will give us an invaluable operating experience as we continue to examine and recommend needed actions at the State and local level and in the private sector.

The immediate objective should be to give every citizen the right to inspect, challenge and correct, if necessary, information about him contained in Federal agency records and to assure him a remedy for illegal invasions of privacy by Federal agencies accountable for safeguarding his records. In legislating,

the right of privacy, of course, must be balanced against equally valid public interests in freedom of information, national defense, foreign policy, law enforcement, and in a high quality and trustworthy Federal work force.

Immediately after I assumed the chairmanship, as Vice President, of the Cabinet-level Domestic Council Committee on the Right of Privacy, I asked the Office of Management and Budget to work jointly with the Committee staff, the Executive agencies and the Congress to work out realistic and effective legislation at the earliest possible time. Substantial progress has been made by both the Senate and the House on bills extending personal privacy protections to tens of millions of records containing personal information in hundreds of Federal data banks.

H.R. 16373, the Privacy Act of 1974, has my enthusiastic support, except for the provisions which allow unlimited individual access to records vital to determining eligibility and promotion in the Federal service and access to classified information. I strongly urge floor amendments permitting workable exemptions to accommodate these situations.

The Senate, also, has made substantial progress in writing privacy legislation. S. 3418 parallels the House bill in many respects, but I believe major technical and substantive amendments are needed to perfect the bill. I do not favor establishing a separate Commission or Board bureaucracy empowered to define privacy in its own terms and to second guess citizens and agencies. I vastly prefer an approach which makes Federal agencies fully and publicly accountable for legally mandated privacy protections and which gives the individual adequate legal remedies to enforce what he deems to be his own best privacy interests.

The adequate protection of personal privacy requires legislative and executive initiatives in areas not addressed by H.R. 16373 and S. 3418. I have asked Executive branch officials to continue to work with the Congress to assure swift action on measures to strengthen privacy and confidentiality in income tax records, criminal justice records and other areas identified as needed privacy initiatives by the Domestic Council Committee on the Right of Privacy.

He made two points on which this endorsement was conditioned—

First, adoption of what has been embodied in the Erlenborn amendment; and

Second, defeat of any amendment calling for creation of a so-called Privacy Commission.

Mr. Chairman, both of these conditions have been met. While I personally opposed the Erlenborn amendment and voted against it, it was nevertheless adopted yesterday on a 192 to 177 recorded vote. The amendment to establish a Privacy Commission, offered by the gentleman from Maryland (Mr. GUDE) earlier today, was defeated.

Mr. Chairman, this bill, as now before us, therefore meets the specific criteria set forth for privacy legislation by President Ford last month. I urge Members on both sides of the aisle to give it the same enthusiastic support as that expressed by President Ford and by many others from all parts of the political spectrum. We do not claim that will solve all of the privacy problems which abound in modern society. It is not a perfect bill: But it is a start and an important first step in the right direction.

Mr. Chairman, section 522a(b)(2) of the bill allows an agency to disclose records contained in a system of records "for a routine use described in any rule * * *."

It would be an impossible legislative task to attempt to set forth all of the appropriate uses of Federal records about an identifiable individual. It is not the purpose of the bill to restrict such ordinary uses of the information. Rather than attempting to specify each proper use of such records, the bill gives each Federal agency the authority to set forth the "routine" purposes for which the records are to be used under the guidance contained in the committee's report.

In this sense "routine use" does not encompass merely the common and ordinary uses to which records are put, but also includes all of the proper and necessary uses even if any such use occurs infrequently. For example, individual income tax return records are routinely used for auditing the determination of the amount of tax due and for assistance in collection of such tax by civil proceedings. They are less often used, however, for referral to the Justice Department for possible criminal prosecution in the event of possible fraud or tax evasion, though no one would argue that such referral is improper; thus the "routine" use of such records and subsection (b)(2) might be appropriately construed to permit the Internal Revenue Service to list in its regulations such a referral as a "routine use."

Again, if a Federal agency such as the Housing and Urban Development Department or the Small Business Administration were to discover a possible fraudulent scheme in one of its programs it could "routinely," as it does today, refer the relevant records to the Department of Justice, or its investigatory arm, the FBI.

Mr. Chairman, the bill obviously is not intended to prohibit such necessary exchanges of information, providing its rulemaking procedures are followed. It is intended to prohibit gratuitous, ad hoc, disseminations for private or otherwise irregular purposes. To this end it would be sufficient if an agency publishes as a "routine use" of its information gathered in any program that an apparent violation of the law will be referred to the appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

It should be noted that the "routine use" exception is in addition to the exception provided for dissemination for law enforcement activity under subsection (b)(6) of the bill. Thus a requested record may be disseminated under either the "routine use" exception, the "law enforcement" exception, or both sections, depending on the circumstances of the case.

Mr. Chairman, section 552a(b)(6) authorizes dissemination of records contained in a system of records "to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request * * *."

The words "head of the agency" deserve elaboration. The committee recognizes that the heads of Government departments cannot be expected to personally request each of the thousands of records which may properly be disseminated under this subsection. If that were required, such officials could not perform their other duties, and in many cases, they could not even perform record requesting duties alone. Such duties may be delegated, like other duties, to other officials, when absolutely necessary but never below a section chief, and this is what is contemplated by subsection (b)(6). The Attorney General, for example, will have the power to delegate the authority to request the thousands of records which may be required for the operation of the Justice Department under this section.

Mr. Chairman, "agency" is given the meaning which it carries elsewhere in the Freedom of Information Act, 5 United States Code, section 551(1), as amended by H.R. 12471 of this Congress, section 552(e), on which Congress has acted to override the veto. The present bill is intended to give "agency" its broadest statutory meaning. This will permit employees and officers of the agency which maintains the records to have access to such records if they have a need for them in the performance of their duties. For example, within the Justice Department—which is an agency under the bill—transfer between divisions of the Department, the U.S. Attorneys' offices, the Parole Board, and the Federal Bureau of Investigation would be on a need-for-the-record basis. Transfer outside the Justice Department to other agencies would be more specifically regulated. Thus, transfer of information between the FBI and the Criminal Division of the Justice Department for official purposes would not require additional showing or authority, in contrast to transfer of such information from the FBI to the Labor Department.

Mr. Chairman, this bill is not designed to interfere with access to information by the courts. Thus a court is not defined as an "agency" nor is it intended to be a "person" for purposes of this legislation. Therefore, the necessary orderly flow of information from Government agencies to the courts will not be impeded. The Congress is treated similarly to the courts; it is also excluded from the definition of "agency."

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the distinguished chairman of the full committee, the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, at this time I would like to pay tribute to the chairman of the subcommittee and the ranking minority member of that subcommittee, and all of the members of the subcommittee who participated in this very long and laborious and important bill. It is a complicated bill and treads new ground, as the subcommittee chairman has said. It may not be as complete as some would want, and it may have some things in it others do not want.

It is something I think that the House can get behind, and I do know the deep interest of the gentleman from Pennsylvania and the gentleman from Illinois in this subject matter, as well as the other Members of the committee, and I know that their oversight on this will be an active and living oversight in the days to come. You cannot grow a full-grown oak by one act, planting. Every piece of legislation that I have worked on in the 32 years I have been here has had to be supervised by the committee or attended to and changed from time to time, with changing conditions, or with information that comes in that indicates changes are necessary. I want to commend both of the gentlemen and members of the committee for work they have done on this. I believe it is a good bill and I intend to vote for it.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for his kind remarks.

(Mr. MOORHEAD of Pennsylvania and was given permission to revise and extend his remarks.)

Mr. KEMP. Mr. Chairman, I rise in support of the bill H.R. 16373, the proposed Privacy Act of 1974, and the principles embodied within it. The American people deserve the type of protection of their privacy provided by this legislation and I ask that it be passed overwhelmingly.

This is not a new subject area to me. During this Congress I have sponsored or cosponsored 16 separate measures relating to the right of privacy. These measures would tighten policy and procedures in such practices as the exchange of information about individuals between Government agencies and Government and industry; the use of social security numbers and other coding systems as universal identifiers; the procedures for approval of wiretaps and other forms of electronic surveillance; the inspection of confidential Federal income tax returns by unauthorized parties; the scope of the exclusions from the Freedom of Information Act; and, various forms of surveillance.

As a member of the Task Force on Privacy, the extensive final report of which was released several months ago, I had an opportunity to participate in the formulation of specific recommendations on what actions the Congress ought to take to further assure the adequacy of law as to the right of privacy.

And, as a member of the Committee on Education and Labor, I was deeply involved in—and supportive of—the enactment of the recent amendment to the Elementary and Secondary Education Act, an amendment tightening procedures for disclosure of information from student records maintained by school systems. Offered in the Senate by the distinguished and learned Senator from New York, JAMES L. BUCKLEY, this amendment, known as the Family Educational Rights and Privacy Act of 1974, is now law and became effective yesterday.

I regard the consideration of this bill today—the first comprehensive privacy bill to be reported by a House committee—as an indication both of the actual need for the protections embodied within it and of the growing awareness among legislators of that need.

THE PRIVACY ACT OF 1974

The bill before us, the Privacy Act of 1974, injects a new sensitivity to individual rights into all the recordkeeping practices of the Federal Government.

These fair information practices assert that there should be no recordkeeping system whose existence is a secret; that personal information in all files should be accurate, complete, relevant and up-to-date; that individuals should be able to review and correct almost all Federal files about themselves; that information gathered for one purpose should not be used for another without the individual's consent; and, that the security and confidentiality of personal files should be assured.

The adoption of these rules as Federal policy is of historic dimensions.

In amending title 5, Government organization and employees, of the United State Code, to reflect these rules, the following specific requirements would be given force of law:

Permits an individual to have access to records containing personal information on him kept by Federal agencies, for purposes of inspection, copying, supplementation and correction—with certain exceptions, including law enforcement and national security records.

Allows an individual to control the transfer of personal information about him from one Federal agency to another for nonroutine purposes by requiring his prior written consent.

Makes known to the American public the existence and characteristics of all personal information systems kept by every Federal agency.

Prohibits the maintenance by Federal agencies of any records concerning the political and religious beliefs of individuals unless expressly authorized by law or an individual himself.

Limits availability of records containing personal information to agency employees who need access to them in the performance of their duties.

Requires agencies to keep an accurate accounting of transfers of personal records to other agencies and outsiders and make such an accounting available, with certain exceptions to the individual upon his request.

Requires agencies, through formal rulemaking, to list and describe routine transfers and establish procedures for access by individuals to records about themselves, amending records, handling medical information, and charging fees for copies of documents.

Makes it incumbent upon an agency to keep records with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in making determinations about him.

Provides a civil remedy by individuals who have been denied access to their records or whose records have been kept or used in contravention of the requirements of the act. The complainant may recover actual damages and costs and attorney fees if the agency's infraction was willful, arbitrary, or capricious.

Makes unlawful possession of or disclosure of individually identifiable information by a government employee punishable by a fine not to exceed $5,000.

Provides that any person who requests or obtains such a record by false pretenses is subject to a fine of not to exceed $5,000.

And, sets forth statutory provisions relating to archival records; requires annual report from President on agency uses of exemptions; and provides that the law would become effective 180 days following enactment.

On the whole, these are the recommendations arising from the initial protection of privacy bill introduced this Congress, the Goldwater-Koch-Kemp bill, particularly as those recommendations relate to access, inspection, copying, supplementation, and correction of records.

The few problems associated with the bill reported by the Committee are susceptible, I believe, to remedy through the amendment process this afternoon.

PRIVACY OF MEDICAL RECORDS AND MEDICAL INFORMATION

Subsection (f) (3) of the proposed section 552a of title 5 would require that each agency maintaining a system of records to promulgate rules to establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him.

The committee's report clarifies this section with the following language:

> If, in the judgment of the agency, the transmission of medical information directly to a requesting individual could have an adverse effect upon such individual, the rules which the agency promulgates should provide means whereby an individual who would be adversely affected by receipt of such data may be apprised of it in a manner which would not cause such adverse effects. An example of a rule serving such purpose would be transmission to a doctor named by the requesting individual.

As one who is particularly concerned with the right of privacy as it pertains to medical records and information—those records and that information held by the Federal agencies as well as those held within the States—I am encouraged by the direction of the committee's action in this regard. But, more should be done.

It is for that reason that I introduced, on October 11, the bill, H.R. 17323, to establish a Federal Medical Privacy Board with responsibility for promoting protection of the right of privacy as it relates to personal medical information.

That bill would establish a comprehensive, mandatory program of protection of the confidentiality of medical records held by Federal agencies and would establish a financial assistance program to States which develop adequate programs for the protection of non-Federal records, held by Government or within the private sector, in their respective States.

This subject is too serious—and potentially too far-reaching—to be dealt with as just one of many items to be covered by a more comprehensive act. I support,

as I indicated earlier, the provision in the bill now before us as to medical records, but I do not feel it is adequate. Neither do I feel that amendments to that section which will be offered this afternoon—although I may support them because they do enhance this section of the bill—can adequately deal with this issue. Only the enactment of a comprehensive measure, like that contained in the proposed Medical Records Privacy Act, is required.

H.R. 17323 was introduced for the expressed purpose of soliciting the views of those to be affected by it—patients, hospital administrators, doctors, associations, insurance companies, attorneys, et cetera. Those comments are now coming in, and they will add immeasurably in the preparation of a perfected bill before the end of the session.

Mr. DRINAN. Mr. Chairman, this bill and the right to privacy have been long aborning. Over 80 years ago, Samuel Warren and Louis Brandeis published their seminal article on "The Right to Privacy" in the Harvard Law Review. In exalting the "right to be let alone," they identified the need to insulate from outside intrusion the "sacred precincts of private and domestic life."

Warren and Brandeis predicted that the "question whether our law will recognize and protect the right to privacy must soon come before our courts for consideration." The expectation that the judiciary would secure these rights has not been fully realized. To be sure, the courts have ventured into the area to some degree. But the judicial attempts to protect privacy have been slow and uneven. They have not been adequate to meet the concerns of contemporary society, partly because technology has outdistanced the common law and partly because Government has out-distanced the common man.

The present need for legislation is quite plain. Through the unceasing efforts of Chairman MOORHEAD, Congressman KOCH, and others, the Privacy Act of 1974 is now before us. As a cosponsor of earlier versions of this bill and a participant in the drafting process through its principal sponsors, I have a particularly keen interest in it.

H.R. 16373 deals with a subject in which I have regularly expressed concern over the years. In the first days of my service in the House, I spoke to this body on the pernicious effects generated by the record-keeping activities of the Internal Security Committee. That practice and other recordations about the lives of our citizens continue on a daily basis by the agencies of the U.S. Government. Personal data which find their way into Government files often find their way out and into the hands of others.

The Privacy Act of 1974 seeks to arrest and control the dissemination of information already collected and stored. It does not purport to regulate the flow of data into Government files nor does it seek to affect the storage of such material. In this analytical sense it is a limited measure. But its importance cannot be overstated. Providing access for persons to examine their files and restricting the distribution of the information contained in them should receive the highest commendation.

H.R. 16373 is a major step in regulating individual files maintained by the Government. It would give individuals access to their files, allow copies to be made, and permit corrections to be inserted. The bill restricts access to records by agency employees on a "need-to-know" basis. Federal workers who could not demonstrate that threshold requirement would be prohibited from examining individual records. The bill would also severely limit the transfer of files from one agency to another. Finally it would require the agency to record the names of all persons who are given access to a person's file.

The bill also provides civil remedies and criminal penalties for violations of its commands. A person who has been aggrieved by agency action may bring suit in the United States District Court to correct any unlawful practice. During the course of that litigation, the district judge is authorized by section (g) (2) (A) to review de novo any determination by an agency, for example, that a record should be withheld. In deciding the case, the judge may order an in camera inspection to make sure that the agency, in refusing to disclose a record, has complied with the law.

These provisions for de novo review and in camera inspection of documents are extremely important. Because of them, the agency cannot hide behind an executive classification which seeks to place the file beyond the reach of the citizen and the Federal court. Under this section, the judge may require any agency, including the Central Intelligence Agency and law enforcement authorities, to produce the records in question for his examination to determine if they are properly within the scope of the claimed exemption.

It may be, for example, that an executive agency might seek to conceal some of its records by transferring them to the CIA for safekeeping. If those files were then sought by an individual, the CIA would undoubtedly resist turning them over to that person. If a suit were then instituted to compel disclosure, the judge could order the records produced for his in camera inspection to determine whether they were in fact CIA records exempted by the statute. In essence this provision achieves the same result as H.R. 12471, the Freedom of Information Act amendments, which we recently passed. In that bill, we included a similar section to overturn the decision of the Supreme Court in *Environmental Protection Agency* v. *Mink*, 410 U.S. 73 (1973). Section (g) (2) (A) of this bill has an identical thrust.

There are, to be sure, provisions in this bill which should give us pause. The general exemptions for the Central Intelligence Agency and for law enforcement authorities are unwarranted and unnecessary. There is no provision for the establishment of a Federal privacy board which was in the predecessor bill, H.R. 667. The 180-day delay in the effective date of this bill could reasonably be cut in half. But even so, it is still a good proposal.

The recent inquiry by this House into the office of the President disclosed a number of practices which invaded the privacy of American citizens. By regulating the manner in which Government agencies conduct their business, as this bill does, we take another important step in protecting the "sacred precincts of private and domestic life." H.R. 16373 does not guarantee that abuses will no longer occur, but it does place checks upon those who would exercise power improperly. I urge my colleagues to vote in favor of this measure.

Mr. MOAKLEY. Mr. Chairman, the bill that was brought before us today was a landmark piece of legislation. It was an essential first step toward the protection of every American's right to privacy.

Unfortunately, the bill on which we are about to vote is no longer such a landmark. We have reneged on our promise to the American people that we would pass legislation to protect the right of every individual to privacy.

We have exempted Federal employees from the protections offered in the provisions of this bill, and we have allowed those Federal agencies afraid to conduct their business in the light of day to continue to work under a cloak of secrecy.

I am voting for this bill, but I do so with the sincere hope that when we return in January as the 94th Congress we will keep the promise that we have made. I, for one, will continue to fight for strong legislation in the area of privacy.

We must establish through legislation an agency with direct oversight of privacy statutes and regulations.

We must reconsider the exceptions to this law, and we must severely narrow those exemptions.

I deeply regret that I cannot offer my wholehearted support for this legislation, legislation which in its former strong and comprehensive state supported every step of the way since coming to Congress.

Mr. KOCH. Mr. Chairman, the first privacy legislation on the subject matter covered by the legislation on the floor today was the bill H.R. 7214 which I introduced on February 19, 1969. There is no legislation in which I have been involved here in the Congress that has given me greater satisfaction and a sense of accomplishment than this. The bill before us does not contain all of the safeguards that I would like to see in privacy legislation. I have some differences with respect to some provisions of the bill, but I do believe the bill to be one well worth supporting.

The basic weaknesses as I see them have to do with several areas. The bill is deficient in the area covering law enforcement agencies. However, that comes about because the House Judiciary Committee under the subcommittee chairmanship of DON EDWARDS is considering comprehensive legislation covering the entire criminal justice field. The Senate provision of the comparable bill which covers this particular area is preferable and yet that too is deficient when compared to the needs. Until the Justice Department can come forward with a proposal that the Congress can agee upon, criminal justice systems should be included in this privacy legislation. It would be completely unjustifiable to exempt criminal justice systems. Privacy

legislation must affect law enforcement records. What is significant is section 3(e)(4) of the bill which applies to agency requirements which states that no agency, including law enforcement agencies, is permitted to maintain a record concerning the political or religious beliefs or activities of any individual unless expressly authorized by statute or by the individual himself.

The exemptions section should be limited only to those files having to do with national defense and foreign policy, information held pursuant to an active criminal investigation, and records maintained for statistical purposes not identifiable to an individual. I regret that the amendment to allow court assessment of punitive damages failed in a vote, and I also regret that the Erlenborn amendment to withhold from an individual the source of confidential information in his file carried.

There is one other area which is included in the Senate bill and that is the establishment of a Federal Privacy Commission which I hope will ultimately be incorporated in the final bill. Key to the concept of enforcing this privacy legislation, insuring the individual's privacy and the Federal agencies' carrying out of this function, is a Privacy Commission. Rather than fight the battle at this point, I would prefer that the legislation before us with its imperfections is sent to conference with the Senate, is perfected there and voted out before the 93d Congress adjourns. However, since the amendment to establish a Commission was voted down today, the House must be prepared to insure that the Commission's functions are absorbed in the privacy bill. The functions of the Commission are:

First, a directory of information systems;

Second, management of systems, oversight and privacy impact statements;

Third, research on the scope and effect of the systems; and

Fourth, an ombudsman role for the individual.

Basic to my 5-year effort to establish privacy standards for all Federal agencies has been the requirement that a directory of data banks be published and available to the general public. Provisions to this effect were part of the bipartisan measure which Congressman GOLDWATER and I introduced in April. Most regrettably, H.R. 16373 as reported contains no specific provision for the publication of a directory of the existence and character of personal systems of records in the executive branch. This can be remedied by minor changes to the agency notice and rule requirements sections of the bill.

The present agency requirements simply call for the annual noticing in the Federal Register of the existence and character of the systems of personal records together with important particulars about the location, categories of information, purpose, policies, practices address and procedures for notification and access. Under agency rules, all rules promulgated to carry out the requirements of the act, in compliance with section 553 of title 5 on rulemaking and public comment, must be published in the Federal Register and made available to the public. This language fails to require the publication of the character of each personal register with these rules. Therefore the public would not have any indication as to the different information systems to which they refer.

I understand there have been objections to an annual catalog of data banks by persons who claim it would be an unwieldy series of volumes. If a separate publication for agency rules were produced there would be two extensive documents. Convenience, uniformity, and likelihood of the general public's use of this information would be impaired. The cost might be prohibitive. As far as I know the so-called unworkability factor, duplication, and cost are the only OMB reasons for opposing a directory.

In an effort to learn the true operating situation, the mechanics of preparing and publishing such directories, I have consulted with officials of the Federal Register. Strangely, mine was the first inquiry from Congress about how to sort out these questions and see that H.R. 16373 is written in a prudent, clear form. These discussions provided me with several important conclusions;

First. An annual directory is not necessary once the basic catalog is published, after that annual updatings can be printed to list changes in registers or note totally new ones.

Second. The language providing for agency notice requires so much detail on procedures for access and notification, policies for storage and practices over such things as disposal of records, that this overlaps significantly into the rulemaking area. It would be impractical to separate the notice requirement and agency rules requirement, therefore they should be printed in the Federal Register concurrently and published in a directory in similar form.

Third. For the original implementation of reporting requirements, it would be wise to involve the Administrative Committee on Federal Reports composed of the Archivist, Attorney General, Public Printer with the Director of the Federal Register serving as its secretary. This committee could prepare a model notice and rule formats for the agencies thus helping to assure uniformity and consistency in presentation. Experience with the reports requirement of the Freedom of Information Act proves that a meaningful public document will need expert advice by the officials represented on this committee.

Mr. Chairman, I offered an amendment so an efficient and economical Directory of Federal Data Banks will be required in the Privacy Act of 1974. We cannot succeed in protecting privacy with a code of fair information practices which does not call for a publically available directory of personal registers.

I do feel that any agency establishing a new data system or substantially changing an existing one should obtain from the National Bureau of Standards an assessment of that system's security safeguards and that the agency should report on this to the Office of Management and Budget and the Congress.

With no Privacy Commission in the House bill, we must be concerned with how the function that the Commission would have performed by way of assessing the privacy impact of systems will be taken care of. The National Bureau of Standards should be consulted with and give an assessment of the security safeguards.

My office has consulted with NBS on this issue. NBS has the authority to issue standards and under the Brooks legislation, NBS with OMB does have input in regards to the procurement of data systems. However, at the present time it is totally permissive for agencies to come to the NBS for technical safeguard assessment before the agency launches new personal information systems. In fact, NBS has yet to be called in on one new start. This was particularly dramatic in the case of the FEDNET plan, advanced by GSA. We should specify that NBS should perform this assessment function, particularly in the area of security safeguards.

Doug Metz, deputy executive director of the Domestic Council Committee on the Right of Privacy has said that one of the task force recommendations made to the committee has been that the Federal Government establish policies and procedures to insure the establishment of privacy safeguards in new telecommunications and data processing systems or substantial modifications to existing systems. OMB is now clearing with Government agencies interim guidelines for such privacy screening.

Agencies should report on the security safeguards to the Congress and OMB prior to the establishment of a new system. In this way we will avoid the situation of another FEDNET being contemplated and the Congress not knowing until the proposal has reached the appropriation stage. At the moment there is no proper way in the early stages of a contemplated system for Congress to be notified. I see no reason why a similar report as the one now formally required by agencies for OMB cannot be furnished the Congress. Without such advance notice, in the preapproval stage, Congress will be left to search the Federal Register and may be relegated to commenting on new or modified systems, rather than to stop or redirect them.

Contained in all measures I have introduced to protect individual records and require open-access practices, is the establishment of a board to regulate, monitor, and hear public grievances. H.R. 16373 contains no privacy agency and leaves individuals largely adrift if they need assistance or wish to protest inability to exercise access or other rights to their personal records. The Senate bill does have a board exercising this function which I favor.

I have looked into the Office of Consumer Affairs possible role as an "ombudsman" for privacy complaints as Mrs. Knauer's office serves in the consumer protection area. Aside from good work in developing and circulating a code of fair information practices for retail stores and other businesses, the Office of Consumer Affairs is not well equipped with statutory authority, technical competence, or access to operating agencies.

This vacuum must be filled and I am hopeful that a Privacy Commission having these duties will prevail. The legislative history must indicate a public repository for assistance and complaints

on compliance with data protection standards.

Congress has been plagued by lack of information on problems involving technology and practices of State and private personal records systems. No research dimension is called for in the House bill. In the Senate measure a well-formulated research program is provided. We are told that the Domestic Council Committee on Right to Privacy is now doing much of this job. That is fine. But Congress and the American people cannot be expected to rely on a temporary committee operating under the nonstatutory Domestic Council, at the behest of the sitting President, in the purview of regularly exercised executive privilege. While I have a high regard for the committee, the fact is they cannot give Congress assurance that the reports and background documents related to their several studies will be made public.

Mr. Chairman, I bring up these deficiencies, along with the need for clear language authorizing a directory, as constructive suggestions for consideration.

I am particularly proud of the fact that this legislation moved ahead in the year of the 93d Congress because it received across the board political support. It became known initially as the Koch and Goldwater privacy bill. And, while it might have seemed strange to some that KOCH and GOLDWATER could join together on some piece of legislation, those who understand the basic premise of conservative and liberal ideology appreciate the fact that on the issue of privacy there is a commonality of interest and concern. The bill before us is the work product of a great number of persons on the committee.

However, I again want to take special note of the enormous support and efforts that subcommittee Chairman WILLIAM MOORHEAD and Congresswoman BELLA ABZUG gave in shaping the legislation, on the Democratic side in committee, as did all the members on that committee. And I also especially want to thank the ranking minority members, JOHN ERLENBORN and FRANK HORTON who worked so diligently to bring this legislation to the floor. The bipartisanship shown was reflected in the Government Operations Committee vote when it passed the bill out of committee 39 to 0. I also want to give special thanks to Senators ERVIN, PERCY, BAYH, MUSKIE, and RIBICOFF for their efforts on the Senate side, which side is today considering companion legislation.

I shall now list the major areas that the bill covers:

First, it permits an individual to gain access to a file held on him by any Federal agency;

Second, permits any person to supplement the information contained in his file;

Third, permits the removal of erroneous or irrelevant information and provides that agencies and persons to whom the erroneous or irrelevant material has been previously transferred, be notified of its removal;

Fourth, prohibits records from being disclosed to anyone outside a Federal agency, except on an individual's request and when permitted by this act in some specified cases;

Fifth, requires an agency to inform an individual of his or her rights when supplying information to the agency;

Sixth, requires an agency to publish notice in the Federal Register of the existence of any system of records held by that agency so that no system will be secret;

Seventh, requires an agency to set rules for access to records, describe the routine uses of the records, establish procedures whereby an individual can amend his record, keep an accurate accounting of disclosures, and keep records in a timely, relevant and accurate manner;

Eighth, prohibits an agency from maintaining a record of political and religious beliefs or activities on an individual, unless expressly authorized by statute or by the individual himself;

Ninth, provides for certain exemptions for CIA files, law enforcement files, secret service files and statistical reporting systems; and

Tenth, provides for a civil remedy for an individual who has been denied access to his records, or whose record has been maintained and used in contravention of this act and an adverse effect results.

Mr. ASHBROOK. Mr. Chairman, I have long had an intense interest in the issue of privacy. In 1962 I introduced a bill to curb the brainpicking tests being given to our Nation's school children. All too often these psychological tests constituted an outright invasion of the privacy of the home and family life. Therefore my bill specifically required that parents be apprised of tests of a nonacademic nature which are administered to their children.

More recently, I helped enact the Buckley-Ashbrook amendment to the Elementary and Secondary Education Amendments of 1974. This amendment denies funds to school districts that do not restrict outside access to student records. It also gives parents and students in higher education the right of access to their files.

The threat of government intrusion into the lives and privacy of individuals has particularly grown during the past 40 years. During that time liberal politicians have consistently promoted a large Federal Government as the solution to all of our Nation's problems. It is somewhat ironic that liberals are now discovering that big government can also create problems.

A prime example of this is the area of individual privacy. As the Federal Government has grown in power, it has increasingly intruded into the personal lives of its citizens.

Particularly disturbing is the vast amount of personal information that is being collected and stored by the various Federal agencies. This information which is usually hidden from the individual's view, is subject to great abuse. With the advent of computer technology and the ability to store almost unlimited amounts of data, the potential threat has become all the greater.

The bill before us—H.R. 16373—is necessary to reduce that threat. It establishes safeguards to help prevent the misuse of personal information by the Federal Government.

Specifically, H.R. 16373 will in most cases allow an individual to see and correct the personal information that is kept on him by Federal agencies. It will also require an individual's prior written consent before personal information can be transferred from one Federal agency to another. Furthermore, agencies must make public the existence of all personal information systems. These and other safeguards provided for in this bill will help reassure the right of personal privacy for our Nation's citizens.

I am proud to support this legislation and I urge its adoption.

Mr. BROOMFIELD. Mr. Chairman, privacy is a right long cherished by Americans and inherent in the Constitution and the Bill of Rights. But, as events in the last decade have shown, there is a tremendous need to enact legislation that will guarantee the ability of all American citizens to determine who will have knowledge of their own private lives. H.R. 16373, the privacy bill of 1974, is an enormous step forward toward meeting this need and I am proud to be a cosponsor of this legislation.

Approximately three out of every four Americans have part of their life histories recorded in computer data banks throughout the country, 7,000 of which are operated by the Federal Government. Yet no Federal law currently exists which permits citizens access to those files in order that they may insure the accuracy of the personal information that is contained on them. Neither can an individual control the transfer of personal information from agency to agency or even to people totally outside the Federal Government.

The implications of this lack of regulation are terrifying. The specter of 1984 has been raised so often that for some, it seems only a scare tactic. But the case of a 16-year-old schoolgirl proves otherwise. Because of a misaddressed letter that was sent to an organization on which the FBI had placed a mail-cover, Lori Paton became the subject of an FBI investigation. Fortunately, she was able to obtain destruction of her file through court action, but others may not be so lucky.

H.R. 16373 is a crucial start toward guaranteeing that other Americans will not undergo experiences similar to those of Lori Paton. The provisions of H.R. 16373 provide basic safeguards of personal privacy to the American people. At the same time, the framework of law it creates to protect the individual does not interfere unduly with the legitimate need of the Government for information about individuals in order to perform its required functions.

The Privacy Act of 1974 has grown from a series of intensive hearings and studies by the House Foreign Operations and Government Information Subcommittee and was approved unanimously. Its support is broad based and bipartisan. I urge all my colleagues to support

this bill so that the assurance of all Americans to what Justice Holmes called "the right most valued by civilized men" can be strengthened under law.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in strong support of H.R. 16373.

The bill, as its name so rightly indicates, is for the purpose of insuring a higher degree of privacy for the individual. It establishes much-needed standards for the collection, maintenance, and dissemination of personally identifiable records maintained by Federal agencies and permits the individual access to these records and an opportunity to correct errors in them.

The need to protect the individual's right to privacy has become increasingly more important with the expanded use of interconnected computer systems and has been exemplified by an alarming increase in the number of abuses.

In particular, I wholeheartedly support the effort being led by my distinguished colleague from California (Mr. GOLDWATER) to prohibit a person from being required to disclose his or her social security number for any purpose not related directly to the operation of the social security program. I am a cosponsor of this proposal.

A limitation on the use of the social security number is necessary to protect the individual from the impersonal data banks which can threaten his right to privacy of information about his activities, his finances, and his lifestyle in general. The prohibition will not prevent the accumulation of such information but it will make the exchange of the information between computers much more difficult than it is at the present time when nearly everyone is asked to include his social security number on nearly every form he fills out.

Social security numbers were originally for the exclusive use of the social security people, looking out for each person's individual equity and benefits. Now it has reached the point where computers ers talk to computers, and the potential invasion of a person's entire private life has become a matter of grave concern to the people.

This legislation is an important step forward in our fight to secure the right of privacy for the individual and I urge my colleagues to support it. It is too easy for government to intimidate, harass or monitor the individual—we must end this possibility in whatever way we can. The adoption of this bill, as amended, is really striking a blow for freedom and the retention of our cherished privacy. I am pleased and proud of the Congress' efforts to advance and accept our legislative proposal.

Mr. GOLDWATER. Mr. Chairman, I am proud and pleased to state to my colleagues in the House that the Republican Task Force on Privacy played an important part in the successful enactment of the Privacy Act of 1974. It is therefore fitting that the product of their investigations be a part of the proceedings:

(BY HOUSE REPUBLICAN RESEARCH COMMITTEE, RECOMMENDATIONS OF PRIVACY TASK FORCE)

The House Republican Research Committee has approved the following recommendations of the Task Force on Privacy which deal with the following areas: Government Surveillance, Federal Information Collection, Social Security Numbers/Standard Universal Identifiers, Census Information, Financial Information, Consumer Reporting, School Records, Juvenile Records, Arrest Records, Medical Records, Computer Data Banks, Code of Ethics.

The House Republican Task Force on Privacy believes that the right to privacy is an issue of paramount concern to the nation, the public and the Congress. Recently publicized incidents of abuses have begun to focus attention on this long neglected area. Public awareness must be heightened and the legislative process geared up to address the full range of problems posed by the issue.

Modern technology has greatly increased the quantity and detail of personal information collection, maintenance, storage, utilization and dissemination. The individual has been physically by-passed in the modern information process. An atmosphere exists in which the individual, in exchange for the benefit or service he obtained, is assumed to waive any and all interest and control over the information collected about him. On the technical and managerial levels, the basic criteria in many decisions relating to personal information practices are considerations of technological feasibility, cost-benefit and convenience. The right to privacy has been made subservient to concerns for expediency, utility and pragmatism.

The trend in personal information practices shows no signs of abating. Twice as many computer systems and seven times as many terminals—particularly remote terminals—will be in use by 1984 as are in use today. And, with each federal service program that is initiated or expanded, there is a geometrically proportionate increase in the quantity and detail of personal information sought by the bureaucracy. The theory is that the broader the information base, the more efficient and successful the administration of the program.

Such a situation demands the attention of Congress and of the American public. The computer does not by definition mean injury to individuals. Its presence has greatly contributed to the American economy and the ability of government to serve the people. Under present procedures, however, the American citizen does not have a clearly defined right to find out what information is being collected, to see such information, to correct errors contained in it, or to seek legal redress for its misuse. Simply put, the citizen must continue to give out large quantities of information but cannot protect himself or herself from its misappropriation, misapplication or misuse. Both government and private enterprise need direction, because many of their practices and polices have developed on an isolated, ad hoc basis.

The House Republican Task Force on Privacy has investigated the following general areas involving the investigation and recording of personal activities and information: government surveillance, federal information collection, social security numbers and universal identifiers, census information, bank secrecy, consumer reporting, school records, juvenile records, arrest records, medical records, and computer data banks. These inquiries have resulted in the development of general suggestions for legislative remedies. Each statement is accompanied by a set of findings.

All findings and recommendations are presented with the intent of being consistent with these general principles:

1. There should be no personal information system whose existence is secret;
2. Information should not be collected unless the need for it has been clearly established in advance;
3. Information should be appropriate and relevant to the purpose for which it has been collected;
4. Information should not be obtained by illegal, fraudulent, or unfair means;
5. Information should not be used unless it is accurate and current;
6. Procedures should be established so that an individual knows what information is stored, the purpose for which it has been recorded, particulars about its use and dissemination, and has the right to examine that information;
7. There should be a clearly prescribed procedure for an individual to correct, erase or amend inaccurate, obsolete, or irrelevant information;
8. Any organization collecting, maintaining, using, or disseminating personnel information should assure its reliability and take precautions to prevent its misuse.
9. There should be a clearly prescribed procedure for an individual to prevent personal information collected for one purpose from being used for another purpose without his consent;
10. The Federal Government should not collect personal information except as expressly authorized by law; and
11. That these basic principles apply to both governmental and non-governmental activities.

Each recommendation of the Task Force seeks to contribute to a broader, more intelligent, viable understanding of the need for a renewed concern for personal privacy. An awareness of personal privacy must be merged with the traditional activities of the free marketplace, the role of government as a public servant, and the need for national security defense, and foreign affairs.

SURVEILLANCE

The Task Force is deeply disturbed by the increasing incidence of unregulated, clandestine government surveillance based solely on administrative or executive authority. Examples of such abuses include wiretapping, bugging, photographing, opening mail, examining confidential records and otherwise intercepting private communications and monitoring private activities. Surveillance at the federal level receives the most publicity. However, state and local government, military intelligence and police activities also must be regulated.

The Fourth Amendment of the Constitution clearly specifies "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures." The First Amendment guards against abridgement of the rights of free speech, free press, and assembly for political purposes. The Fourteenth Amendment states that none of a citizen's rights may be taken from him by governmental action without the due process of law.

The direct threat to individual civil liberties is obvious in those cases in which a person is actually being monitored, but even more alarming is the "chilling effect" such activities have on all citizens. A person who fears that he will be monitored may, either subconsciously or consciously, fail to fully exercise his constitutionally guaranteed liberties. The mere existence of such fear erodes basic freedoms and cannot be accepted in a democratic society.

The various abuses of discretionary authority in the conduct of surveillance pro-

vide ample evidence that current safeguard mechanisms do not work. Procedures allowing the executive branch to determine whether a surveillance activity is proper or not pose certain conflict of interest questions.

A degree of controversy surrounds the question of the authority of the President to initiate electronic surveillance without the safeguards afforded by court review. Present law is clear on this point: the Omnibus Crime Control and Safe Streets Act of 1968 lists those specific crimes in connection with which electronic monitoring may be instituted and requires that court approval be obtained in these cases. However, dispute has arisen over Executive claims of Constitutional prerogatives to implement wiretaps for national security purposes. The Supreme Court has ruled that, if such prerogative exists, it does not apply to cases of domestic surveillance unrelated to national security. The Court has not yet ruled on the constitutionality of national security wiretaps unauthorized by a court. Cases are pending before the courts at this time which raise this issue. The Task Force agrees with the movement of the Judiciary to circumscribe unauthorized wiretaps and hopes it will proceed in this direction.

The Task Force feels that surveillance is so repugnant to the right to individual privacy and due process that its use should be confined to exceptional circumstances. The Task Force further feels that no agent of federal, state, or local government should be permitted to conduct any form of surveillance, including wiretapping of U.S. citizens in national security cases, without having demonstrated probable cause and without having obtained the approval of a court of competent jurisdiction. The Task Force recommends enactment of new legislation to prohibit the unauthorized surveillance by any means, and, further recommends that existing laws be clarified to the extent this may be necessary to ensure that no agent of the government, for any reason, shall have the authority to conduct any surveillance on any American citizen for any reason without first obtaining a court order.

The Task Force believes that this proposal would not lessen the capability of the government to protect and defend the American people, but would go a long way toward assuring the individual citizen that his constitutional rights will not be abridged by government without due process of law.

FEDERAL INFORMATION COLLECTION

Recently, there has been a pronounced increase in federal data and information collection. Over 11.5 million cubic feet of records were stored in Federal Records Centers at the beginning of FY 1973. Accompanying this increase has been a rise in the potential for abuse of federal information collection systems.

The Federal Reports Act of 1942 was enacted to protect individuals from overly burdensome and repetitive reporting requirements. The agency entrusted with the responsibility for implementing the Act has ignored the legislative mandate and failed to hold a single hearing or conduct any investigations. With the exception of the Bureau of the Census and the Internal Revenue Service, there are few restrictions on the collection or dissemination of confidential information compiled by federal agencies.

The Task Force recommends that the Office of Management and Budget immediately begin a thorough review and examination of all approved government forms and eliminate all repetitive and unnecessary information requirements.

Legislation setting down clear guidelines and spelling out restrictions is needed to protect the individual from unrestricted and uncontrolled information collection. Individuals asked to provide information must be apprised of its intended uses. Individuals supplying information which will be made public must be notified of that fact at the time the information is collected or requested. Public disclosure (including dissemination on an intra- or inter-agency basis) of financial or other personal information must be prohibited to protect the privacy of respondents.

Returning the use of the Social Security Number (SSN) to its intended purpose (i.e. operation of old-age, survivors, and disability insurance programs) is a necessary corollary to safeguarding the right of privacy and curtailing illegal or excessive information collection.

The use of the Social Security Number has proliferated to many general items including state driver licenses, Congressional, school and employment identification cards, credit cards and credit investigation reports, taxpayer identification, military service numbers, welfare and social services program recipients, state voter registration, insurance policies and records and group health records.

There are serious problems associated with the use of the SSN as a standard universal number to identify individuals. A standard universal identifier (SUI) will relegate individuals to a number; thereby, increasing feelings of alienation. The SSN's growing use as an identifier and filing number is already having a negative, dehumanizing effect upon many citizens. In addition, the use of a SUI by all types of organizations enables the linking of records and the tracking of an individual from cradle to grave. This possibility would negate the right to make a "fresh start", the right of anonymity, and the right to be left alone, with no compensating benefit.

A well-developed SUI system would require a huge, complex bureaucratic apparatus to control it and demand a strict system of professional ethics for information technicians. The technology needed to protect against unauthorized use has not yet been adequately researched and developed. A loss, leak or theft would seriously compromise a system and official misappropriation could become a political threat. The following Congressional action is needed:

1. legislation should be enacted that sets guidelines for use of the SSN by limiting it to the operation of old-age, survivors, and disability insurance programs or as required by federal law;

2. any Executive Orders authorizing federal agencies to use SSN's should be repealed, or alternatively, reevaluated and modified;

3. legislation should be enacted restricting the use of the SSN to well-defined uses, and prohibiting the development and use of any type of SUI until the technical state of the computer can ensure the security of such a system. At that time, a SUI system should have limited applicability and should be developed only after a full congressional investigation and mandate; and

4. new government programs should be prohibited from incorporating the use of the SSN or other possible SUI. Existing programs using the SSN without specific authorization by law must be required to phase out their use of the SSN. State and local governmental agencies, as well as the private sector, should follow this same course of action.

A review should be conducted of the Internal Revenue Service in both its collection and dissemination policies. Leaks must be ended. The need for stricter penalties for unauthorized activities should be reviewed.

CENSUS BUREAU

The greatest personal data collection agency is the Bureau of Census. Created to count the people in order to determine congressional districts, this agency has mushroomed into a vast information center which generates about 500,000 pages of numbers and charts each year.

Under penalty of law, the citizen is forced to divulge intimate, personal facts surrounding his public and private life and that of the entire family. These answers provide a substantial personal dossier on each American citizen. The strictest care must be taken to protect the confidentiality of these records and ensure that the information is used for proper purposes.

The Census Bureau sells parts of its collected data to anyone who wishes to purchase such information. Included are all types of statistical data that are available on population and housing characteristics. As the questions become more detailed and extensive, broadscale dissemination becomes more threatening and frightening. When used in combination with phone directories, drivers' licenses and street directories, census data may enable any one interested to identify an individual. Therefore, it is vitally important that rules and regulations governing the access to and dissemination of this collected data be reviewed, clarified and strengthened.

Legislation is needed to guarantee the confidentiality of individual information by expanding the scope of confidentiality under existing law and by increasing the severity of punishment for divulging confidential information. These provisions should be specifically directed at the officers and employees of the Bureau of Census, all officers and employees of the Federal government and private citizens who wrongfully acquire such information. In addition, the Bureau of the Census must use all available technological sophistication to assure that individuals cannot be inductively identified.

FINANCIAL INFORMATION

On October 26, 1970, sweeping legislation known as the Bank Secrecy Act became law. The Act's intention was to reduce white collar crime by making records more accessible to law enforcement officials. However, in accomplishing its purpose, it allowed federal agencies to seize and secure certain financial papers and effects of bank customers without serving a warrant or showing probable cause. The Act's compulsory recordkeeping requirements, by allowing the recording of almost all significant transactions, convert private financial dealings into the personal property of the banks. The banks become the collectors and custodians of financial records which, when improperly used, enable an individual's entire life style to be tracked down.

The general language of the Act allowed bureaucrats to ignore the intent of the law and neglect to institute adequate privacy safeguards. The Supreme Court affirmed this approach by upholding the constiutionality of both the law and the bureaucratic misinterpretation of it.

Congress must now take action to prevent the unwarranted invasion of privacy by prescribing specific procedures and standards governing the disclosure of financial information by financial institutions to Federal officials or agencies. Congress must enact legislation to assure that the disclosure of a customer's records will occur only if the customer specifically authorizes a disclosure or if the financial institution is served with a court order directing it to comply. Legislation must specfy that legal safeguards be

provided requiring that the customer be properly notified and be provided legal means of challenging the subpoena or summons.

Passage of such legislation would be an important step forward in reaffirming the individual's right to privacy.

CONSUMER REPORTING

The consumer reporting industry, through its network of credit bureaus, investigative agencies, and other reporting entities is in growing conflict with individual privacy. Most Americans eventually will be the subject of a consumer report as a result of applying for credit, insurance, or employment. The problem is one of balancing the legitimate needs of business with the basic rights of the individual.

Consumer reports fall into two categories. First, there are the familiar which contain "factual" information on an individual's credit record such as where accounts are held and how promptly bills are paid. 100 million consumer reports are produced each year by some 2600 credit bureaus.

The second ones go beyond factual information to include subjective opinions of the individual's character, general reputation, personal characteristics, and mode of living. These are often obtained through interviews with neighbors, friends, ex-spouses and former employers or employees. An estimated 30 to 40 million such reports are produced annually.

The first Federal attempt at regulating the collection and reporting of information on consumers by third-party agencies came in 1970 with the enactment of the Fair Credit Reporting Act (FCRA). In theory, the Act had three main objectives: to enable consumers to correct inaccurate and misleading reports; to preserve the confidentiality of the information; and to protect the individual's right to privacy.

The specific safeguards provided by the FCRA are: A consumer adversely affected because of information contained in a consumer report must be so notified and given the identity of the reporting agency. The consumer is entitled to an oral disclosure of the information contained in his file and the identity of its recipients. Items disputed by the consumer must be deleted if the information cannot be reconfirmed. The consumer may have his version of any disputed item entered in his file and included in subsequent reports.

The FCRA needs to be strengthened in two major areas: disclosure requirements and investigative reports. The individual should be entitled to actually see and inspect his file, rather than rely on an oral presentation. Further, he should be allowed to obtain a copy of it by mail (the consumer is often geographically distant from the source of the file). Users of consumer reports should be required to specifically identify the information which triggered any adverse action.

The FCRA protects the sources used in investigative reports. The Task Force believes that this is contrary to the basic tenets of our system of justice and that the information source must be revealed upon the subject's request. Furthermore, the Task Force recommends that advance written authorization be required from any individual who is the subject of an investigative report for any purpose.

SCHOOL RECORDS

The recent increase in popular awareness of the seriousness of the privacy issue has been accompanied by an increase in the general concern over loose, unstructured and unsupervised school recordkeeping systems and associated administrative practices. There has also been general discussion about what information should be kept on a child and considered part of his or her "record". Parents are frequently denied access to their own child's record, or are prohibited from challenging incorrect or misleading information contained in his file. At the same time, incidents of highly personal data being indiscriminately disseminated to inquirers unconnected with the school system are not uncommon.

Remedial measures are available to the Congress in the form of legislative actions. The sanctions under which such provisions would operate, however, are the key to their effectiveness. The Task Force proposes the Congress adopt as a general policy the rule that federal funds be withheld from any state or local educational agency or institution which has the policy of preventing parents from inspecting, reviewing, and challenging the content of his or her child's school record. Outside access to these school records must be limited so that protection of the student's right to privacy is ensured. It is recommended that the release of such identifiable personal data outside the school system be contingent upon the written consent of the parents or court order.

All persons, agencies, or organizations desiring access to the records of a student must complete a written form indicating the specific educational need for the information. This information shall be kept permanently with the file of the student for inspection by parents of students only and transferred to a third party only with written consent of the parents. Personal data should be made available for basic or applied research only when adequate safeguards have been established to protect the students' and families' rights of privacy.

Whenever a student has attained eighteen years of age, the permission or consent required of and the rights accorded to the parents should be conferred and passed to the student.

Finally, the Secretary of HEW should establish or designate an office and review board within HEW for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions set forth by the Congress.

JUVENILE RECORDS

The Task Force supports the basic philosophy underlying the existence of a separate court system for juvenile offenders, which is to avoid the stigmatizing effect of a criminal procedure. The lack of confidentiality of such proceedings and accompanying records subverts this intent and violates the individual's basic right of privacy.

Most states have enacted laws to provide confidentiality. Yet the Task Force finds that due to a lack of specific legislation, and contrary to the intent of the juvenile justice system, the individual's right of privacy is often routinely violated. Juvenile records are routinely released to the military, civil service, and often to private employers as well. This occurs in cases in which the hearing involves non-criminal charges, in cases of arrest but no court action, in cases in which the individual is no longer under the jurisdiction of the juvenile court, and in cases where this file has been administratively closed.

Legislation governing the confidentiality of juvenile court and police records varies widely from state to state. Only 24 states control and limit access to police records, therefore enabling a potential employer who is refused access to court records to obtain the information from the police. Only 16 states have expungement laws providing for the destruction of such records after a specified period of good behavior. Only 6 states make it a crime to improperly disclose juvenile record information. And, one state, Iowa, in fact provides that juvenile records must be open to the public for inspection. The Task Force finds that even in those states whose laws provide adequate protection, actual practices are often inconsistent with legislation.

Many new questions about confidentiality, privacy and juvenile rights are being raised, and the Task Force finds that the establishment of safeguards has lagged significantly behind technological developments. For example, presently no state has enacted legislation regulating the use of computers in juvenile court; as a rule, each system establishes its own guidelines for data collection, retention, and distribution.

The Task Force finds that with the use of computers, the juvenile's right to privacy is additionally threatened by the increased accessibility to his record and therefore increased possibility of misuse. Staff carelessness, less than strict adherence to rules of limited access, and electronic sabotage must now be added to the existing threats to the juvenile's right to privacy.

The Task Force recommends the establishment of minimum federal standards for state laws to include the following provisions:

1. all records of the juvenile court and all police records concerning a juvenile shall be considered confidential and shall not be made public. Access to these records shall be limited to those officials directly connected with the child's treatment, welfare, and rehabilitation;

2. dissemination of juvenile records, or divulgence of that information for employment, licensing, or any purpose in violation of statutory provisions shall be subject to a criminal penalty;

3. to protect the reformed delinquent from stigma continuing into his adult life, provisions should specify a procedure for either the total destruction or the sealing of all juvenile court and police investigative and offender records at the time the youth reaches his majority, or when two years have elapsed since he has been discharged from the custody or supervision of the court. Subsequent to this expungement, all proceedings and records should be treated as though they had never occurred and the youth should reply as such to any inquiry concerning his juvenile record; and

4. all police records on juveniles arrested but where no court action was taken should be systematically destroyed when the incident is no longer under active investigation.

The Task Force recommends the enactment of legislation specifically prohibiting federal agencies from requesting information relating to juvenile record expungement from employment applicants or from requesting such information from the courts or the police.

The Task Force further recommends the cessation of all Federal funding for computerized systems which contain juvenile records unless it can be demonstrated that these systems provide adequate safeguards for the protection of the juvenile's right of privacy. These standards must fulfill all the requirements of the minimum standards for state legislation previously enumerated, including special provisions to strictly limit data accessibility.

ARREST RECORDS

A large percentage of arrests never result in conviction. Yet, in over half the states, individual's arrest records are open to public inspection, subjecting innocent parties to undue stigma, harrassment, and discrimination.

Persons with arrest records often find it difficult, if not impossible to secure employment or licenses. A study of empolyment agencies in the New York City area found that seventy-five percent would not make a referral for any applicant with an arrest record. This was true even in cases in which the arrest was not followed by a trial and conviction. This is just one example of the widespread practice of "presumption of guilt" based on the existence of an arrest record.

The Task Force holds that release of information about arrests not followed by con-

viction is a direct violation of the individual's rights of privacy. It therefore recommends that legislative efforts be directed toward:

1. establishing minimum standards for state laws calling for the automatic sealing of all individual arrest records which were not followed by conviction and which are no longer under active investigation;

2. requiring the FBI to seal arrest records not followed by conviction; and

3. prohibiting inclusion of arrest records not followed by conviction on computerized systems involving more than one state or using federal funds.

MEDICAL RECORDS

Medical records, which contain sensitive and personal information, are especially in need of privacy safeguards to maintain basic trust in the doctor-patient relationship. Yet, development of automated data processing systems has enhanced the ability of government and private organizations to store, analyze and transfer medical records. Increasingly, this occurs without the individual's knowledge or consent. Abuse of such information systems can have a deleterious effect on doctor-patient relations.

To guarante the privacy of medical records, the Task Force recommends that:

1. the federal government provide dollar grants and incentives to States for the voluntary adoption and execution of State plans to insure the right to privacy for computerized medical information systems. Such a plan would place principal responsibility on the States, giving the federal government the right to set minimum standards;

2. Congress review the recently enacted Professional Standards Reviews Organizations (PSRO) legislation. There are increasing numbers of reports and complaints regarding Review Board uses of medical files and the threat this poses to privileged, confidential doctor-patient relationships; and

3. provisions be included in national health insurance legislation which specifically ensure the individual's privacy. The institution of a national health insurance plan will create a vast medical information network which will require stringent safeguards to prevent abuses of the patients' right to privacy.

COMPUTER DATA BANKS

The use of the computer has brought great commercial and social benefits to modern America. Greater reliance on the computer, however, increases its integration into all aspects of daily life. The result is increased vulnerability to abuse or misuse of computerized information.

The Task Force finds that the individual possesses inadequate remedies for the correction of such abuses. In fact, the Task Force considers it probable that many abuses have gone unreported simply because the individual involved did not know of the data being collected about him.

Even if the individual is aware that data is being collected about him, he faces several obstacles if he wishes to expunge purely private information or to correct erroneous information. Among his obstacles are the following: the lack of statutory support for legal action (except in the credit reporting area), the cost of litigation, and even fear of retaliation by the company or agency being challenged.

Despite their potential for abuse, data banks remain an inescapable fact of life in a society growing more complex and more technological. The Task Force does not oppose data banks as such, but favors strong safeguards against their misuse, and recommends that:

1. rights under the Fair Credit Reporting Act of 1970 be extended to all data collection. The individual must have and be informed of his right to review information in any collection of data about himself (excluding national security and criminal justice files);

2. Congress establish categories (i.e. in-depth biographical, financial, medical, etc.) of information which may not be included in reports on an individual unless the individual knowingly gives his uncoerced consent;

3. limited exceptions be granted for national security and criminal justice investigations;

4. criminal and civil penalties be established for any use of statistical data (collected for collective analysis) to wrongfully acquire information on individuals;

5. transfer of personal information between governmental agencies be strictly limited;

6. the creation of a centralized Federal data bank (except for national security and criminal justice purposes) be prohibited; and

7. a federal "privacy protection agency" be established to enforce the proposed legislation.

CODE OF ETHICS AND STANDARD OF CONDUCT

The Republican Task Force on Privacy believes there to be a definite need for the development of a universal code of ethics and standard of conduct for the technical, managerial and academic personnel involved in the development and use of personal information systems. The Task Force regards this to be essential for the automated and computerized information systems. Personal information systems are becoming an integral aspect of the daily life of every individual in our society. This sensitive relationship demands and merits the development of an attitude of professionalism. It is recognized that some efforts have been made to develop and foster such atttiudes. But, the information industry as a whole has not supported such efforts as a matter of policy. The Task Force declares its commitment to the development, maintenance, management and use of personal information systems.

CONCLUSION

The Task Force is aware that this is a relatively new area of concern. Some recommendations may go too far and some not far enough. Some areas may have been overlooked. But there is no question that now is the time to address ourselves to this important and far reaching issue. If we fail—George Orwell's 1984 may become a reality by 1976.

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The CHAIRMAN. Are there any further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair (Mr. BRADEMAS) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 16373 to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, pursuant to House Resolution 1419, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If no, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 1, not voting 80, as follows:

[Roll No. 641]

YEAS—353

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

NAYS—1

Landgrebe

NOT VOTING—80

Armstrong	Froehlich	Patman
Ashbrook	Giaimo	Poage
Aspin	Grasso	Podell
Bell	Grover	Powell, Ohio
Bergland	Hansen, Wash.	Quillen
Boggs	Harsha	Rangel
Boland	Hastings	Rarick
Brasco	Hays	Rhodes
Breaux	Hébert	Riegle
Brooks	Heckler, Mass.	Roe
Burke, Calif.	Hillis	Roncallo, N.Y.
Camp	Hogan	Rooney, N.Y.
Carey, N.Y.	Hunt	Runnels
Chappell	Jones, Ala.	St Germain
Clancy	Jones, N.C.	Sebelius
Clay	Karth	Shoup
Conable	Kastenmeier	Sikes
Crane	Kluczynski	Staggers
Daniels, Dominick V.	Kuykendall	Stephens
	Landrum	Symms
Danielson	Latta	Teague
Dent	Luken	Tiernan
Devine	McSpadden	Traxler
Diggs	Metcalfe	Waldie
Dulski	Minshall, Ohio	Wyman
Eshleman	Moss	Young, Ga.
Evans, Colo.	Murphy, N.Y.	Young, S.C.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Dulski.
Mrs. Boggs with Mr. Aspin.
Mr. Moss with Mr. Luken.
Mr. Sikes with Mr. McSpadden.
Mr. Boland with Mr. Young of Georgia.
Mr. Rooney of New York with Mr. Tiernan.
Mr. Giaimo with Mr. Traxler.
Mr. Staggers with Mr. Patman.
Mr. Hays with Mr. Minshall of Ohio.
Mr. Bergland with Mr. Kuykendall.
Mr. Chappell with Mr. Hunt.
Mr. Carey of New York with Mr. Hogan.
Mr. Brooks with Mr. Camp.
Mrs. Burke of California with Mr. Froehlich.
Mr. Breaux with Mr. Ashbrook.
Mr. Kluczynski with Mr. Grover.
Mr. Landrum with Mr. Devine.
Mr. Metcalfe with Mrs. Grasso.
Mr. Murphy of New York with Mr. Conable.
Mr. Teague with Mr. Hillis.
Mr. St Germain with Mr. Powell of Ohio.
Mr. Riegle with Mr. Bell.
Mr. Latta with Mr. Hastings.
Mr. Rangel with Mrs. Hansen of Washington.
Mr. Roe with Mr. Crane.
Mr. Jones of Alabama with Mr. Harsha.
Mr. Kastenmeier with Mr. Eshleman.
Mr. Karth with Mr. Clancy.

Mr. Jones of North Carolina with Mr. Quillen.
Mr. Diggs with Mr. Roncallo of New York.
Mr. Evans of Colorado with Mr. Sebelius.
Mr. Dent with Mr. Shoup.
Mr. Dominick V. Daniels with Mr. Stephens.
Mr. Clay with Mr. Waldie.
Mr. Danielson with Mr. Symms.
Mr. Runnels with Mr. Wyman.
Mr. Rhodes with Mr. Young of South Carolina.
Mrs. Heckler of Massachusetts with Mr Rarick.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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 material on the bill just passed.

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

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT FRIDAY, NOVEMBER 22, 1974, TO FILE A REPORT ON H.R. 17045, TO AMEND THE SOCIAL SECURITY ACT

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Friday, November 22, 1974, to file a report on the bill, H.R. 17045, to amend the Social Security Act to establish a consolidated program of Federal financial assistance to encourage provision of services by the States, along with any supplemental and/or separate views.

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

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I take this time to ask the majority whip to kindly advise us of the program for next week.

Mr. McFALL. Mr. Speaker, if the gentleman from Illinois will yield, I will be glad to provide this information.

There is no further legislative business for today. Upon the announcement of the program for next week, I will ask unanimous consent to go over until Monday.

The program for the House of Representatives for the week of November 25, 1974, is as follows:

Monday is District day, and there is one bill,

H.R. 17450, People's Counsel for District of Columbia Public Service Commission.

The other measures to be considered are:

House Resolution 1387, place for amendments in CONGRESSIONAL RECORD;

H.R. 16609, AEC supplemental authorization, under an open rule, with 1 hour of debate;

House Joint Resolution 1161, entry into foreign ports of U.S. nuclear ships, under an open rule, with 1 hour of debate; and

H.R. 16074, nuclear information for Congress, under an open rule, with 1 hour of debate.

On Tuesday there will be considered:

H.R. 15580, Labor-HEW appropriations, fiscal year 1975, a conference report; and

H.R. 17468, military construction appropriations, fiscal year 1975.

Conference reports may be brought up at any time, and any further program will be announced later.

The House will recess at the close of business Tuesday, November 26, until noon, Tuesday, December 3.

ADJOURNMENT OVER TO MONDAY, NOVEMBER 25, 1974

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

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

Mr. GROSS. Mr. Speaker, reserving the right to object, I do so only to ask the gentleman a question. I thought perhaps I could ask the question before he made this request.

Does the gentleman anticipate that there will be legislation for a pay increase for Members of Congress, members of the judiciary, and some of the other employees of Government in the remainder of the 93d Congress?

Mr. McFALL. If the gentleman will yield for that purpose, I am sorry to say I have not heard of any.

Mr. GROSS. The gentleman has heard of no intention?

Mr. McFALL. I am sorry to say that I have not heard of any, and I regret that there is not legislation, not just for the Members of Congress, but for the 10,000 other people in the executive branch. I believe that it is necessary for the whole civil service structure that such legislation be considered, but I am sorry to say I have not heard of any.

Mr. GROSS. I will say to my friend, the gentleman from California, that I am sorry to say that I have heard of proposals to that end, and that is the reason for my inquiry.

Mr. McFALL. In response to what the gentleman stated just a moment ago, those who retire will get a raise in their retirement because of the cost-of-living escalator clause.

Mr. GROSS. No, I had not heard of that. How do we go about that?

I will not take the time of the House but I will sit down with the gentleman and find out how we go about obtaining that, at the gentleman's leisure.

Mr. McFALL. I think it is automatic.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT TO FILE CONFERENCE REPORT ON S. 425, STRIP MINING

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file a conference report on S. 425, strip mining.

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

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Speaker, I wish to announce that I missed the rollcall 641 on the bill H.R. 16373, the Privacy Act of 1974. Had I been present, I would have voted "aye."

TRIBUTE TO THE BLOUNT COUNTY PATRIOTIC YOUTH FESTIVAL

(Mr. BEVILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BEVILL. Mr. Speaker, last August 24, a unique patriotic rally to dramatize what is good about America was held in Blount County, Ala., which is in my congressional district.

The program was planned and carried out by young people from several high schools in Blount County. The message they brought was: get involved in politics, register to vote, and join in the process of making decisions that move the country.

The project proved to be a huge success and has drawn praise from people throughout the State of Alabama. President Ford sent a telegram of greetings and support.

Representatives of the Patriotic Youth Festival have been invited by the White House to come to the Nation's Capital to present the resolution of patriotism from the youth of Blount County.

In Washington Wednesday to present the resolution to a representative of President Ford were Steve Jones, president of the student council of Oneonta High School; Beverly Latham, festival treasurer and function chairman; Randy Vaughn, author of the resolution and Tri-State winner of the FFA public speaking contest. Mr. Brice Marsh, who assisted with the production of the festival, his wife Mary, and 10-year-old daughter, Terri, accompanied the group to the White House.

The resolution that was presented reads as follows:

A RESOLUTION FROM THE YOUTH OF BLOUNT COUNTY, ALA., TO PRESIDENT GERALD FORD

Be it hereby resolved that I stand with renewed faith in America. I desire to rekindle the spirit of patriotism and pride that has been tarnished by the apathy, distrust and dishonesty that have become so apparent in current events.

We, the people, must share the responsibility for the state in which we find ourselves. Only through our interest and involvement can we hope for an improvement in our state of affairs. We must humble our-