Catastrophic wildfires occurred in the Pacific Northwest and Northern Rocky Mountain States in 1973 and in California in 1977. In these situations Canadian Forces could have been effectively used to supplement and back up domestic firefighters. H.R. 3726 would allow such units to be used and would permit their reimbursement.

Mr. KINDNESS. Mr. Speaker, I join in support of H.R. 3726, a bill to permit the use of foreign firefighting resources on Federal land and to improve the wildfire fighting capability of the Federal Government.

Wildfires, as has been pointed out, especially in the Western States, have caused millions of dollars of damage in the last decade. Recently, the fires in Montana raged out of control and burned thousands of acres of forest and range land as well as residential and commercial property and this needless destruction must be deterred or stopped to the best of our ability.

H.R. 3726 will increase our ability to fight such fires by permitting the use of firefighting organizations of foreign lands including those of foreign corporations and associations, in fighting wildfires anywhere on Federal land in the United States.

These foreign firefighters would provide much-needed assistance in manpower and equipment to our domestic forces. The Department of Agriculture stated that Canadian forces would be especially helpful in controlling fires in the Pacific Northwest and Rocky Mountain States.

In addition, the Department has ascertained that in certain situations it is more cost-effective to reimburse foreign forces rather than to transport Federal or State forces from more distant locations.

So, Mr. Speaker, H.R. 3726 was proposed by the administration. It represents a logical and necessary step in increasing the fire protection of our Federal land. I strongly urge support of H.R. 3726 and recommend its approval, and yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I was unaware of this bill, and the gentleman may wonder why I am a little concerned right now, but you are talking about Federal lands and it is cheaper, apparently the administration says it is cheaper to hire foreigners to be fighting our fires on our Federal lands.

Now, are we speaking it is cheaper because of the salaries being paid or because of transportation capabilities?

Mr. KINDNESS. Mr. Speaker, the concern is that uppermost is transporting equipment and personnel over greater distances. For example, in the gentleman's State of Alaska, it is a potential problem to have backup personnel and equipment coming from down in the Western States; a greater distance while fires might rage.

Mr. YOUNG of Alaska. What I am concerned here with, we have a very valid group of firefighters available in the State of Alaska primarily as Alaskan Indians. We just passed a bill a few moments ago concerning waters.

I would be deeply disturbed if I happened to look out and see a bunch of Canadians working in my Federal lands which is not owned because of efforts of some people in this Congress approximately 74 percent by the Federal Government, but seeing Alaskans deprived of one of the major sources of income from the more remote areas, fighting fires on Federal lands.

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Mr. KINDNESS. Mr. Speaker, I would hasten to assure the gentleman from Alaska that what is intended here is strictly the emergency supplemental use of personnel from outside of the area that would be affected by the fire, and only where there are no domestic personnel and resources readily available to get there.

But as the gentleman would concede, there could be occasions in which it would be more costly and more time-consuming to move people and equipment from, let us say, Wyoming to a fire in Alaska than it would be to get some help from our neighbors across the border.

Mr. YOUNG of Alaska. I have no argument with that. I just want to make sure that those in Montana, if the firefighters are available, they would have been hired first; or if it is in Wyoming or Utah or California or the State of Washington or Oregon, the timber States, and Alaska, that because of the proximity of the Canadian work force, that they are not available or they are not used when there are available forces near.

I would like to ask the chairman of the committee about that.

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

Mr. KINDNESS. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Alaska brings up a very legitimate question, and that is not the intent of the legislation, to deny that. It is really to assist in logistics operations, like in the recent fire in Montana. We brought firefighters from all over the United States, which would have strained the system if we had fires develop in other places, and it was very close in proximity to where Canadians could help.

Under the present law, we could not reimburse them, had they come in. This is not hiring the Canadians; it would be on a reimbursement basis in case of emergency, so that the system would not be strained.

Mr. YOUNG of Alaska. I want to thank both of the gentlemen for this colloquy. I think it has set the record straight that the areas that we are concerned with would be protected, and also that the residents there will have access to, very frankly, a source of employment whenever those things occur.

Mr. KINDNESS. I thank the gentleman for his contribution in making the record clear on that point.

Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. FUQUA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FUQUA] that the House suspend rules and pass the bill, H.R. 3726, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

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

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## CENTRAL INTELLIGENCE AGENCY INFORMATION ACT

Mr. BOLAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5164) to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes, as amended by the Committee on Government Operations.

The Clerk read as follows:

H.R. 5164

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Central Intelligence Agency Information Act".

SEC. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

"TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

"EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE

"SEC. 701. (a) Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence from the provisions of section 552 of title 5, United States Code (Freedom of Information Act), which require publication or disclosure, or search or review in connection therewith.

"(b) For the purposes of this title the term 'operational files' means—

"(1) files of the Directorate of Operations which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with for-

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eign governments or their intelligence or security services;

"(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

"(3) files of the Office of Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources;

except that files which are the sole repository of disseminated intelligence are not operational files.

"(c) Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

"(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 of title 5, United States Code (Freedom of Information Act), or section 552a of title 5 United States Code (Privacy Act of 1974);

"(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code (Freedom of Information Act); or

"(3) the specific subject matter of an investigation by the intelligence committees of the Congress, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of Central Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

"(d)(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

"(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

"(e) The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after the date of enactment of subsection (a), and which specifically cites and repeals or modifies its provisions.

"(f) Whenever any person who has requested agency records under section 552 of title 5, United States Code (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code, except that—

"(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte, in camera by the court;

"(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

"(3) when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

"(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

"(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence;

"(5) in proceeding under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that request for admission may be made pursuant to rules 26 and 36;

"(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

"(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES

"SEC. 702. (a) Not less than once every ten years, the Director of Central Intelligence shall review the exemptions in force under subsection (a) of section 701 of this Act to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

"(b) The review required by subsection (a) of this section shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(c) A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this section may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review.".

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

"Sec. 701. Exemption of certain operational files from search, review, publication, or disclosure.

"Sec. 702. Decennial review of exempted operational files.".

(c) Subsection (q) of section 552a of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(q)"; and

(2) by adding at the end thereof the following:

"(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.".

SEC. 3. (a) The Director of Central Intelligence, in consultation with the Archivist of the United States, the Librarian of Congress, and appropriate representatives of the historical discipline selected by the Archivist, shall prepare and submit by June 1, 1985, a report on the feasibility of conducting systematic review for declassification and release of Central Intelligence Agency information of historical value.

(b)(1) The Director shall, once each six months, prepare and submit an unclassified report which includes—

(A) a description of the specific measures established by the Director to improve the processing of requests under section 552 of title 5, United States Code;

(B) the current budgetary and personnel allocations for such processing;

(C) the number of such requests (i) received and processed during the preceding six months, and (ii) pending at the tme of submission of such report; and

(D) an estimate of the current average response time for completing the processing of such requests.

(2) The first report required by paragraph (1) shall be submitted by a date which is six months after the date of enactment of this Act. The requirements of such paragraph shall cease to apply after the submission of the fourth such report.

(c) Each of the reports required by subsections (a) and (b) shall be submitted to the Permanent Select Committee on Intelligence and the Committee on Government Operations of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 4. The amendments made by subsections (a) and (b) of section 2 shall be effective upon enactment of this Act and shall apply with respect to any requests for records, whether or not such request was made prior to such enactment, and shall apply to all civil actions not commenced prior to February 7, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. BOLAND] will be recognized for 20 minutes and the gentleman from Virginia [Mr. WHITEHURST] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I rise in strong support of H.R. 5164, the Central Intelligence Agency Information Act.

This bill represents an important convergence of necessary protection for true national security secrets and preservation of the public's right of timely access to Government information.

H.R. 5164's synthesis of these sometimes conflicting principles is a tribute to the hard work of the gentleman from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on Legislation, and the gentleman from Virginia [Mr. WHITEHURST], the ranking minority member of the subcommittee. Mr. MAZZOLI was unable to be present to manage the bill today because he had to attend an immigration bill conference committee meeting, perhaps one of the most important conferences this year.

As always, the contributions of the gentleman from Virginia [Mr. ROBINSON], the ranking minority member of the committee, were quintessentially demonstrated by the unanimous support H.R. 5164 received from the Permanent Select Committee on Intelligence.

The bill thereafter was considered—and improved—by the Committee on Government Operations, where it was shepherded through by the gentleman from Oklahoma [Mr. ENGLISH], the chairman of the Subcommittee on Government Information, Justice, and Agriculture, and by the gentleman from Ohio [Mr. KINDNESS], the ranking minority member of the subcommittee.

The result of all these efforts, Mr. Speaker, is a bill unanimously endorsed by the Intelligence Committee and by all but one member of the Committee on Government Operations.

The administration supports the bill.

It has the firm support of the Central Intelligence Agency and the American Civil Liberties Union.

The CIA can of course be expected to be in favor of this legislation.

The reason why the ACLU's endorsement is especially significant, however, is because that organization cannot be expected to endorse a bill that will result in less information being available to the public than is presently the case.

Such is indeed the policy of the ACLU.

Its endorsement is premised on the firm expectation—shared by the two committees which have worked on H.R. 5164—that the flow of properly releasable information to the public will be expedited by this bill.

It will, they believe, eliminate those requests from the queue that never result in the release of information but do consume many man-hours of search and review.

Yet, while faster CIA response to Freedom of Information Act requests was the reason the ACLU supported legislation of this type, the issue that convinced the ACLU leadership to endorse H.R. 5164 was its judicial review provisions.

Judicial review will do nove, as it is under the FOIA today.

The key point, however, is that judicial review will be no less restrictive than current litigation practices.

In effect, the bill codifies current FOIA reality for CIA cases.

This is because litigants simply have not prevailed in seeking access to the kind of information to be found in purely operational files. And, it is the judgment of your committees that such information ought not to be made public.

The ACLU has accepted the legitimacy of the bill's definition of operational files. That acceptance follows 10 years of actual, practical litigation experience that confirms that courts agree with the CIA on withholding such information from the public.

Mr. Speaker, that situation won't change, but neither will CIA's backlog until some relief is provided.

More money and personnel won't deplete the growing queue of FOIA requests since only experienced CIA operations officers are qualified to properly review material from operational files.

These people are unique because of their experience and special knowledge. They have other important tasks to do. If they can be freed from the laborious review of files that never are released, other requests will be handled more quickly.

At the same time, no less information will be released to the public than if a search has been made.

Mr. Speaker, it has been suggested that those who contest by lawsuit CIA practices under this bill must prove CIA activities violate its provisions before they can seek to raise such issues.

"A real catch-22," the critics claim, and they add that regular discovery isn't available to assist such litigants.

That is simply wrong. Plaintiffs don't have to prove their case before they file it, but they must show some support for their allegations. After all, the object of the bill is to release the CIA from the obligation to search its operational files.

If mere allegation will force a search to prove that a search isn't required, that is a catch-22 of real proportions.

Further, discovery in FOIA suits under this bill will be limited only with respect to two new types of allegations—allegations which this legislation makes it possible for plaintiffs to raise when suing CIA.

Questions involving all other complaints are subject to existing discovery rules and case law.

Mr. Speaker, it is true that under this bill, FOIA litigants likely will be unable to reach documents in CIA operational files. Their chances under present law are no better.

What is preserved is the essence of effective judicial review now applied in national security FOIA cases.

If a plaintiff can offer some evidence that documents have been improperly filed in operational files, or files have been improperly designated as operational files, then the court must consider those issues.

That review will be a de novo review under the existing FOIA judicial review provisions. And what the plaintiff cannot see, the judge can if he believes he needs to see it to decide the case.

Although the bill encourages the resolution of such suits on the basis of written submissions, the court always has the power—as in any FOIA case—to see any document, examine any file.

"Judicial Discovery," if you will, and de novo judicial review are the cornerstone of FOIA review today, and they will remain the bedrock of review under H.R. 5164.

Mr. Speaker, there are other concerns that have been raised about this legislation. I include at the end of my statement a response to these allegations. These responses show, I believe, that the bill before the House has carefully covered the important right to information of the American people.

It protects that right. It also protects intelligence information that should not be—and has not been—revealed publicly.

The balance struck between these two concerns has stood the test of intense scrutiny. Most importantly, it is a balance that will survive the test of time, because it advances the public interest of the Nation.

It deserves the support of this House.

ATTACHMENT

Allegation: H.R. 5164 would effectively bar public access to almost all of the CIA's operational files. Had this law been part of the original FOIA legislation, it is likely that the American people would never have learned of the numerous illegal undertakings by the agency, at home and abroad, that have come to light in recent years.

Response: There never has been any public access to CIA operational files. No meaningful information from such files has ever been released pursuant to any FOIA request. The revelations of CIA illegalities and improprieties, with one exception, came from the Rockefeller Commission, the Pike Committee, the Church Committee, and through leaks to investigate reporters, not through FOIA. The one exception, additional information concerning CIA drug experiment programs which was obtained through an FOIA request, would still be accessible because the issue has been the subject of both CIA and congressional investigations and because, in any case, the files from which the drug experiment information was obtained do not meet H.R. 5164's definition of operational files. This issue was specifically examined by the Intelligence Committee and the Government Operations Committee. At the Committee's request, CIA examined a very long series of examples of previous FOIA released documents relating to past CIA illegalities and improprieties. The review showed that the same material would still be released under H.R. 5164. This review is publicly available in the published hearings on H.R. 5164.

Allegation: The most alarming provisions of H.R. 5164 are those relating to the all-im-

portant judicial review. If the CIA were to improperly withhold information from disclosure, the ability of the person filing the FOIA request and of the courts to compel disclosure are so restricted by H.R. 5164 as to be rendered meaningless. For example, the bill would establish a Catch 22 whereby a requester could not use the FOIA to secure most relevant CIA documents unless he or she could convince an oversight agency or committee to investigate the specific subject of the request.

Response: The ACLU fully supports the bill and the judicial review provision. This support was reaffirmed as recently as Friday, September 14, by ACLU Executive Director Ira Glasser. Further, the "Catch-22" is no catch at all because the "investigations" section was only added as an extra precaution: in most cases, information searchable because of the investigations exemption would also be searchable because of the first person request exemption and because such information would be duplicated in non-operational files. Moreover, as the Intelligence Committee report notes, individuals can, in appropriate circumstances, trigger internal CIA investigation of illegalities or improprieties; thus, related records would become open to search under the investigations exemption.

Allegation: Moreover, in prohibiting the plaintiff's use of depositions and interrogatories, H.R. 5164 would severely limit the gathering of information by "discovery," even under close court supervision to protect sensitive information. The bill would also: alter normal rules of federal evidence law in unprecedented ways; eliminate, in almost all cases, the ability of the courts to review contested information; and, even if the court were to find the CIA had willfully violated the law, remove the courts' power to impose legal sanctions on the agency.

Response: The bill only prohibits use of depositions and interrogatories when the legal dispute concerns the two narrowly focused issues of whether a document has been improperly filed or a file has been improperly designated as operational, two new issues which can arise in CIA FOIA cases due to H.R. 5164. Even as to these issues, the Court may compel the production of testimony or documents to aid it in deciding the case, and the plaintiff, as noted in the House Intelligence Committee Report, is free to make recommendations to the court on what the court should seek. It is important to note as a practical matter that, in existing CIA FOIA cases in which plaintiffs seek discovery from the CIA, the CIA seeks, and almost invariably obtains, protective orders severely restricting or prohibiting discovery from CIA.

As to alleged alteration of "normal rules of federal evidence law" the Intelligence Committee Report on page 33 very clearly states: "Nothing in H.R. 5164 in any way affects the law of evidence," and nothing in the bill addresses any rules of evidence. The bill only addresses the standard of review, which is *de novo*, and a few special procedural rules, but does not change existing rules concerning what is relevant, probative, or admissible to prove any proposition in a lawsuit. Existing rules of evidence will continue to apply.

Finally, as to the Court's alleged inability to review the information sought by the FOIA requester, the Intelligence Committee Report, on page 33, states:

"Thus, when necessary to decision, the court may go beyond sworn written submission to require the Agency to produce additional information, such as live testimony, or the court may examine the contents of operational files. As an example, if the propriety of the exemption of an operational file is properly drawn into question under paragraph 701(f)(4), and the court concludes after considering the various sworn written submissions of the parties that it is necessary to decision that the court examine the content of the operational file, the court may do so."

Mr. Speaker, I reserve the balance of my time.

Mr. WHITEHURST. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Virginia [Mr. ROBINSON].

Mr. ROBINSON. I thank the gentleman for yielding time to me.

Mr. Speaker, it is with a great deal of pleasure that I rise in support of H.R. 5164, the Central Intelligence Agency Information Act. The Permanent Select Committee on Intelligence and the Committee on Government Operations have drawn this bill carefully to accommodate both the informational needs of the public and the operational security needs of the Central Intelligence Agency. The bill will contribute to the achievement of two important goals—an informed citizenry and an effective foreign intelligence agency.

The legislation has been designed to achieve three important objectives.

First, the bill will relieve the CIA from an unproductive FOIA requirement to search and review certain CIA operational files consisting of records, which, after line-by-line security review, almost invariably prove not to be releasable under the FOIA.

Second, the bill will improve the CIA's ability to respond to FOIA requests in a timely and efficient manner, while preserving undiminished the amount of meaningful information releasable to the public under the FOIA.

Third, the bill will provide additional assurances of confidentiality to individuals who cooperate with the United States as CIA sources.

The House owes a debt of gratitude to the leaders of the committees and subcommittees whose painstaking work had enabled this legislation to come to the House floor. I would like to acknowledge the leadership and contributions of:

Chairman BOLAND of the Permanent Select Committee on Intelligence;

Chairman MAZZOLI and ranking member WHITEHURST of the Intelligence Subcommittee on Legislation;

Chairman BROOKS and ranking member HORTON of the Committee on Government Operations; and

And Chairman ENGLISH and ranking member KINDNESS of the Government Operations Subcommittee on Government Information.

These distinguished Members of the House forged a strong, bipartisan consensus of support for H.R. 5164. It is a testimony to their wisdom, patience, and legislative skill that they have developed a bill strongly supported by a diverse group of organizations which includes both the Central Intelligence Agency and the American Civil Liberties Union.

Mr. Speaker, this bill carefully protects the existing rights of the public to obtain information from the CIA under the Freedom of Information Act and at the same time relieves the CIA of unproductive administrative processing burdens that contribute nothing to the FOIA goal of an informed citizenry. I urge my colleagues to vote to suspend the rules and pass H.R. 5164.

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Mr. BOLAND. Mr. Speaker, I yield such time as he might require to the gentleman from Oklahoma [Mr. ENGLISH], who is chairman of the Subcommittee on Government Information, Justice, and Agriculture.

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

Mr. ENGLISH. Mr. Speaker, I rise in support of H.R. 5164.

The Central Intelligence Agency Information Act exempts specifically defined CIA operational files from the search and review requirements of the Freedom of Information Act. These files document intelligence sources and methods, and, because of the sensitivity of the information, little has ever been made public.

Although H.R. 5164 provides the CIA with a limited exemption from the FOIA, the legislation does not make any change in the basic policy on which the FOIA is based. In fact, the bill reaffirms that the principles of freedom of information are applicable to the CIA.

The bill leaves the CIA subject to the FOIA. It confirms that the CIA maintains information about which the public may legitimately inquire. It recognizes that access to information is important in maintaining the public's faith in Government agencies, including the CIA.

H.R. 5164 is consistent with the purposes of the FOIA because it will not interfere with the processing of requests for major categories of CIA information. The only CIA records that will be subject to withholding under H.R. 5164 are those records that are currently exempt today.

Because the amount and type of information that must be disclosed will not change, H.R. 5164 is essentially a procedural reform of the CIA's freedom of information responsibilities. The bill will make it less burdensome for the CIA to deny access to files that are already exempt. Instead of reviewing records in operational files on a page-by-page, line-by-line basis, the CIA will be able to deny most requests for operational files in a categorical fashion.

The result will be more efficient handling of FOIA requests by the CIA. For those seeking CIA records, increased efficiency will mean faster processing, and a substantial reduction of response time has been promised by the CIA. This will restore the useful-

ness of the FOIA without any meaningful limitations on the amount of information that will be released.

In short, H.R. 5164 will make things better not only for the CIA but also for those who use the FOIA to obtain records from the CIA.

The Government Operations Committee made only two amendments to the bill as reported by the Permanent Select Committee on Intelligence. One amendment requires the CIA to file an unclassified report on FOIA processing every 6 months for the 2 years following enactment. This report will permit the public and the Congress to determine whether the CIA is living up to its commitment to improve the speed of its FOIA operations.

The second amendment clarifies the relationship between the Freedom of Information Act and the Privacy Act of 1974. There has been unnecessary confusion lately about how these two laws fit together. The committee amendment clarifies the original congressional intent and restores the interpretation that had been in place ever since enactment of the Privacy Act in 1974.

This clarification is necessary because H.R. 5164 relies on the continued ability of individuals to use the FOIA to seek access to CIA records about themselves. Without the Privacy Act amendment, the right of access contemplated by H.R. 5164 would be unenforceable in court.

The Privacy Act amendment included in H.R. 5164 is the text of H.R. 4696, a bill that I introduced along with Representatives BROOKS, HORTON, KINDNESS, and ERLENBORN. The amendment makes it crystal clear that the exemptions of the Privacy Act do not authorize the withholding of information that would otherwise be available if requested under the FOIA by the subject of the record. The effect of the amendment is to codify the holding of the D.C. Circuit Court of Appeals in *Greentree* v. *U.S. Customs Service*, 674 F.2d 74 (1982), and to reject recent amendments to the Department of Justice FOI and Privacy Act regulations and to the OMB Privacy Act Guidelines. The holding in Greentree and the original OMB Privacy Act guidelines reflect the intent of Congress when the Privacy Act 1974 was passed.

The clarification of the relationship between the Privacy Act and the FOIA will not only affect access requests made at the CIA but will have an identical effect on requests made at all other agencies subject to the FOI and Privacy Acts. In removing any ambiguity that may surround the relationship of the Privacy Act to the FOIA, we are specifically taking steps to apply a uniform interpretation to the records of all Federal agencies. To do otherwise would only increase uncertainty, confusion, and litigation.

With the amendment to the Privacy Act made by H.R. 5164, individuals will continue to be able to make requests for records about themselves using the procedures in either the Privacy Act, the FOIA, or both. Agencies will be obliged to continue to process requests under either or both laws. Agencies that had made it a practice to treat a request made under either law as if the request were made under both laws should continue to do so.

H.R. 5164 is the product of several years of effort by the CIA, House and Senate Intelligence Committee, and others, including the American Civil Liberties Union. It was hard work, and everyone associated with the bill deserves to be congratulated. I especially want to commend Representative MAZZOLI and Chairman BOLAND and the other members of the Intelligence Committee for their careful drafting and excellent legislative report.

I think that some lessons regarding the FOIA in general can be drawn from the consideration of H.R. 5164. First, although the bill is drafted as an amendment to the National Security Act, it was jointly referred to the Government Operations Committee as well as the Intelligence Committee. This was appropriate because the bill has a direct impact on the FOIA. Both committees held public hearings, and all interested parties had an opportunity to comment.

For these reasons, H.R. 5164 should be a model for the consideration of legislation that affects the availability of information under FOIA without amending the FOIA itself. The prompt action taken by the Government Operations Committee demonstrates a willingness to consider carefully written and narrowly drawn proposals that increase the efficiency of the FOIA process without interfering unduly with public access to information.

I urge the adoption of H.R. 5164.

Mr. WHITEHURST. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, I rise to urge my colleagues to support H.R. 5164, the CIA Information Act, to protect the operational secrecy of CIA human intelligence activities.

Several of the Members have emphasized that CIA responses to FOIA requests will be faster and more efficient when H.R. 5164 is implemented, and that no meaningful CIA information will cease to be available to the public under FOIA because of enactment of H.R. 5164. This is, of course, true, and these are important reasons to support the bill. But I believe there is an even more important reason for supporting the bill. We must reassure CIA sources abroad who cooperate with the CIA that the United States can keep secrets. This bill will send a message to CIA sources that they are safe in trusting the United States.

To carry out its intelligence activities, the CIA depends upon sources, including both individual agents and intelligence services of cooperating nations, for information and operational assistance. CIA human sources, the recruited agents, are a vital part of the Nation's intelligence program, in part because they can often provide the key pieces of information U.S. intelligence agencies need on the intentions of foreign powers.

To secure the cooperation of a well-placed individual who can provide information or operational assistance, the Central Intelligence Agency officer who will work with that individual must establish with him a secret relationship of great trust. The source places his life and his livelihood in the hands of the CIA when he agrees to serve as a source of information or operational assistance for the U.S. Government. If the fact of the source's cooperation with the CIA becomes known, the United States loses a source of great value in ensuring the security of our Nation. The source loses his freedom, and in many parts of the world, his life. The critical element in establishing and maintaining the cooperation of a source is the source's perception that he can safely cooperate with the CIA because the CIA can protect the secrecy of the relationship.

The CIA establishes similar relationships based on trust with the intelligence and security services of cooperating foreign nations. These services share intelligence with the CIA and assist the CIA in the conduct of its intelligence activities worldwide. These services will cooperate only if the United States protects the secrecy of the liaison relationship. These services will not share information with the CIA if such sharing places their sources at risk. Moreover, it is in the nature of relations among nations that they do not publicly acknowledge cooperation with other nations in the conduct of intelligence activities. Thus, even those nations whose intelligence services are widely presumed to engage in some form of cooperation with the CIA abroad would remain quite sensitive to any U.S. acknowledgment of the existence of such a relationship.

In the dacade since the 1974 amendments to the Freedom of Information Act, the CIA has experienced difficulty traceable in part to that act in recruiting sources. The CIA has testified repeatedly that potential sources of great value have declined to cooperate with the CIA from fear that our Government cannot protect the secrecy of their relationship to the CIA from disclosure under the FOIA. The CIA also testified that existing sources terminated cooperation from the same fear, and that intelligence services of other nations have expressed concern about cooperating with the United States due to the application of the Freedom of Information Act to the CIA.

The perception of these CIA sources of information and operational assistance is not unfounded. Errors can

occur, and have occurred, in the processing of FOIA requests. The risk of disclosure is not as great as they may perceive it to be since FOIA exemptions exist for source-revealing information. It is, however, the source's perception, and not the actual state of affairs, which governs the willingness of the source to cooperate with the CIA.

H.R. 5164 contributes substantially to resolving the problem of the perception by CIA sources that the CIA may not be able to protect the secrecy of their relationship from FOIA disclosure. The bill withdraws CIA files which directly concern intelligence sources and methods from the FOIA process. The risk of accidental or unknowing disclosure or source-revealing information will be largely eliminated, because the sensitive CIA operational files documenting the operational activities of sources will no longer be part of the FOIA process. With enactment of H.R. 5164, those who cooperate with the Central Intelligence Agency in the conduct of intelligence activities can rest assured that the CIA can maintain inviolate the confidentiality of their relationsip to the U.S. Government.

Mr. Speaker, I urge my colleagues to vote in favor of passage of H.R. 5164.

□ 1320

Mr. BOLAND. Mr. Speaker, I yield such time as he may require to the distinguished gentleman from New York [Mr. WEISS].

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

Mr. WEISS. Mr. Speaker, I want to express my appreciation to my distinguished colleague for his courtesy.

Mr. Speaker, I rise in strong opposition to H.R. 5164, the Central Intelligence Agency Information Act.

This legislation would dangerously intrude on the power of the courts to review the actions of the Central Intelligence Agency and would likely limit legitimate public access to CIA documents. It would place excessive trust in an agency that only a few months ago was caught withholding vital information from Congressional Intelligence Committees.

Had this legislation been part of the original Freedom of Information Act, it is possible the American people never would have learned of the agency's numerous illegal undertakings, at home and abroad, that have come to light in recent years.

For example, we first learned that the agency spied on civil rights leader Martin Luther King, Jr., from documents obtained through FOIA. The same is true of the CIA's recruitment of American blacks in the late 60s and early 70s to spy on Black Panthers in this country and in Africa.

Author Stephen Schlesinger, seeking material on the CIA-backed coup in Guatemala in 1954, after being told by the CIA that 165 pages of material comprised the entire file, learned of the existence of 180,000 pages of information that the CIA was withholding, only after filing a FOIA suit.

And the National Student Association learned through the FOIA that the CIA may have continued its covert relationship with the association years after the two had signed a separation agreement.

Enactment of H.R. 5164 will make future discoveries of this nature more difficult—if not impossible—to uncover.

Most alarming are the unique provisions in this bill that would essentially prevent both the plaintiff and the courts from forcing the CIA to disclose improperly withheld information.

I am aware of no other law on the books that bars virtually all "discovery"—the pretrial gathering of evidence—by a litigant in a suit against a Government agency, thereby requiring a plaintiff to prove his case on the basis of personal knowledge or other admissible evidence already in his possession; or that bars a Federal court from imposing penalties on a Government agency if it finds the agency guilty of illegally withholding information. Sections 701f3 and 701f6 of this bill would.

The court's ability to conduct an independent review of the contested documents would be curtailed by section 701f4A, which permits the CIA to substitute a written statement in lieu of the actual documents. The court may not even require the CIA staff to go back and review the documents itself in preparation of the written statement (section 701f4B).

If the House is of the mind to restrict the public's access to information, we should do it directly, without tying the hands of the courts to enforce the laws we enact.

It is not difficult to see why groups like the Society for Professional Journalists, American Historical Association, Radio-Television News Directors Association, Newspaper Guild, and Reporters Committee for Freedom of the Press are opposing this bill.

The CIA's record of responding to requests under the Freeom of Information Act has been appalling. The 2- to 3-year backlog that this bill seeks to erase is among the worst records in the Federal bureaucracy. Individuals filing FOIA requests commonly face a host of tactics that delay and impede legitimate actess to information. The agency has consistently ignored the mandate of the Congress to submit, except in limited circumstances, to the scrutiny of public review.

Moreover, the necessity for increased secrecy has not been justified. The Freedom of Information Act already adequately protects properly classified foreign intelligence information. In those cases in which the CIA refused an individual's request for information, the individual may ask for a judicial review that includes a closed session inspection of the documents in question. In the entire history of FOIA, judicial review has never resulted in the improper release of sensitive information.

The bill does retain access to operational files in three narrow categories—those containing subject matter under investigation by a congressional or agency oversight panel, for example. But that provision forces a requester to somehow trigger an investigation before gaining access to the information. Some scholars believe this provision to be unconstitutional.

One last concern: While H.R. 5164 would instruct the CIA Director to review the status of exempted materials every 10 years, there is no requirement that any of the documents be released at that time—or ever. Without a time limit on exemptions, the American public may forever be denied the change to fully evaluate the CIA's role in our Government and history.

Few would dispute that a legitimate need exists to protect some CIA information from public release. But restricting public access should be the exception, not the norm.

The American public would be better served by enacting legislation clarifying the limited circumstances under which information could be withheld by the CIA. This was, in fact, proposed by former Federal district court judge and our former colleague Congressman Richardson Preyer in 1980. He advocated exempting from disclosure, information provided to the CIA in confidence by a secret intelligence source or a foreign intelligence service. Sensibly, his bill would not have tampered with judicial review.

I believe the CIA requires even closer oversight by the Congress, the courts, and the American people. Given its past record, it is no wonder the CIA is so eager to limit review of its actions.

I urge my colleagues to join me in voting against this unnecessary increase in secrecy.

Mr. WHITEHURST. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. KINDNESS].

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

Mr. KINDNESS. Mr. Speaker, I thank the gentleman from Virginia for yielding this time.

Mr. Speaker, I want to express my support of H.R. 5164.

I will not reiterate what has already been said about the provisions of this bill. It is a bill which has undergone careful scrutiny and drafting by the Intelligence Committees of the Senate and House and your Committee on Government Operations here in the House.

This bill is the product of a consensus which developed after some 9 years of experience in litigating Freedom of Information Act lawsuits arising from requests for information di-

rected to the Central Intelligence Agency. During those years of litigating, a pattern became clear, and that was that certain operational files of the CIA could not be opened to public scrutiny.

Meanwhile, other requests for information which, to some extent, could be released were caught in the long lineup of those requests for access to information in operational files.

While the pattern became clear some years ago, I took some time for a consensus to develop on the means of speeding up access to CIA files without jeopardizing either the current degree of access or the agency's essential functions.

The experience of the Agency and of those who have sought to obtain information from the Agency under the Freedom of Information Act has been a great teacher. Four years ago, at the time our Government Operations Subcommittee on Government Information held hearings on legislation similar in concept and structure to H.R. 5164, I do not believe that any of us, either we in the Congress or the CIA or the ACLU and others who request information, knew quite how to adjust the CIA's obligation under FOIA.

At the time of those hearings, judicial review was a critical issue. The questions raised at that time about the extent of judicial reviewability of CIA compliance with the FOIA and the authority granted in this legislation have been dealt with fully, and I believe, fairly in this bill.

Section 701(f) provides for de novo judicial review pursuant to the provisions of the Freedom of Information Act with very limited exceptions. Those exceptions are fair, they are limited, they are clearly stated in the language of the bill as well as being clearly explained in the report of the Permanent Select Committee on Intelligence. I recommend particularly that all who are interested in obtaining information from the CIA pursuant to the Freedom of Information or Privacy Acts to read the bill and the accompanying reports.

I would also like to comment, Mr. Speaker, specifically about the amendment added to the bill by your Committee on Government Operations intended to clarify the relationship between the Freedom of Information Act and the Privacy Act.

It was unfortunate that a couple of circuit courts of appeals took it upon themselves to raise the issue of the relationship between the two acts and resolve it in a way not intended by the Congress. It was even more unfortunate that after 9 years of adherence to a policy consistent with congressional intent both the Department of Justice and the Office of Management and Budget last March decided to follow those misguided courts of appeals and reversed their regulations and policy guidance.

I think it is appropriate that we in the Congress act to clarify the relationship between the Freedom of Information Act and the Privacy Act and that this legislation is an appropriate vehicle in which to do that.

As one who has been involved in efforts to amend the Administrative Procedure Act over recent years, efforts which have been referred to as "regulatory reform," I am particularly troubled by agencies reversing longstanding regulations or policy guidance where there has been no change in the underlying statute by the Congress or no change in the circumstances. And, if some courts do not interpret the statutes as we in the Congress intended, I believe it is incumbent upon the Congress to clarify the law, removing any ambiguity which may exist.

This bill is an appropriate vehicle in which to make this clarification. The issue is clearly raised by this legislation. And one need not harbour feelings of mistrust toward the CIA in order to see the issue as it is raised in section 701(c)(1), the exception designed to preserve an individual's access to information maintained about him or herself.

I understand that there is a Supreme Court case pending to resolve differences between several circuit courts of appeals on this issue of statutory interpretation. We in the Congress should save the Court the trouble and clarify the law on this point.

I urge my colleagues to support this bill and hope that it will be cleared quickly by the other body for the President's signature.

There are some points that ought to be clarified for those who might have some concern about points that have been raised in the discussion by the gentleman from New York. It was pointed out that the bill would in the opinion of the gentleman dangerously intrude upon the power of the courts to review CIA activity, paraphrasing the gentleman's expression of that point, but I would point out to my colleagues that it is clear in section 701(c)(3) of the bill before us that there is not such an intrusion. Opinions might differ, but at least the clear wording of the bill points out that nothing would preclude or prohibit the inquiry by the court into the subject matter that is the subject for search and review if that is a specific subject matter of an investigation by the Intelligence Committees of the Congress, the Intelligence Committee's Oversight Board, the Department of Justice, the Office of General Council of the Central Intelligence Agency, the Office of Inspector General of the CIA or the Office of the Director of the CIA, for any impropriety or violation of law or Executive order or Presidential directive in the conduct of an intelligence activity, and further, that material would be subject to review if it involves any special activity, the existence of which is not exempt from disclosure under the provisions of section 552 of title V of the code, the Freedom of Information Act.

Therefore, I feel as others do, that all of the cases that could be cited as potential areas of abuse have been covered by these exceptions that are made in section 701(c).

There are other points that have been raised that I think I might clarify for the record.

□ 1330

There has been criticism of section 701(f), various parts of it, but particularly subsection 4(B) pointing out that the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of that same section, unless the complainants dispute the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

In other words, this is really a codification of the existing case law. The court is not under present practice going to review the content of an exempted operational file unless someone has something substantial to indicate that there is, in fact, reason to do so.

I think on balance the bill before us has not only done an excellent job of creating the situation that will reduce the caseload or the burden, the backlog, and thus allow more Freedom of Information Act requests to be dealt with promptly, but it has protected the necessary elements and I think indeed, as the gentleman from Florida has pointed out, improved the ability to protect that which needs to be protected for the purposes of being able to carry out our intelligence activities, and that is the integrity of the operational files of the CIA.

I think we have an excellent bill with an unusual history of agreement and consensus about two committees that are most deeply concerned with the matter, the Freedom of Information Act and the Intelligence Information Act activities.

I would hope that all of our colleagues would join in support of H.R. 5164, and I yield back the balance of my time.

Mr. BOLAND. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

(Mr. WHITEHURST asked and was given permission to revise and extend their remarks.)

Mr. WHITEHURST. Mr. Speaker, I rise in support of H.R. 5164, the CIA Information Act. This bill has achieved wide support in the Congress because it was drafted carefully to address successfully the concerns of all who are interested in the legislation. Even on the thorniest issue, that of

the nature of judicial review of CIA action to implement the legislation, a balanced position has been achieved. The bill has been drawn carefully to ensure that the operational security needs of the CIA are met and that the current statutory right of individuals to obtain information under the FOIA from the CIA is preserved. The administration supports enactment of this bill.

The issue of judicial review of CIA implementation of the bill provides a good example of the extraordinary good faith efforts of all concerned to develop legislation to which everyone can give full support. Initially, the positions of the three organizations which expressed particular interest in the judicial review provisions were far apart:

The Central Intelligence Agency initially believed that any judicial review was inappropriate and that congressional oversight alone would provide the mechanism for ensuring faithful CIA implementation of the bill.

The American Bar Association believed that judicial review was appropriate, but that it should be limited to determining that the action of the Director of the Central Intelligence is not frivolous, a very deferential standard of judicial review.

The American Civil Liberties Union believed that judicial review was essential, and that such review must take place under the existing FOIA substantive judicial review provisions requiring de novo judicial review.

The committee concluded without difficulty that judicial review of CIA implementation of H.R. 5164 was important to ensure public confidence in that implementation. Precisely defining the nature of that review took considerably greater time and effort.

After a great deal of discussion, it became clear that the primary concern of the CIA with the judicial review provisions was procedural; while the primary concern of the American Civil Liberties Union was substantive. The CIA feared that the judicial review requirements would ultimately undo the benefits the legislation was designed to achieve by requiring CIA upon a mere, unsupported allegation of CIA error by a disappointed FOIA requester to conduct FOIA searches of exempt operational files and line-by-line reviews of exempt records in order to explain the CIA's actions to judges. The ACLU, on the other hand, was concerned that specifying a deferential standard of review, which would require courts to uphold CIA action upon determining that such action was merely "nonfrivolous" or "not arbitrary or capricious," would signal the courts to conduct very little review at all, since the courts have interpreted the existing de novo FOIA substantive review standard to involve a significant amount of deference.

These two positions, which initially appeared to be incompatible, were in fact reconcilable, and resulted in section 701(f) of H.R. 5164. Section 701(f) provides that judicial review of CIA action to implement section 701 of the bill will be conducted under the existing judicial review provision of the FOIA; that is, under the FOIA de novo substantive standard of judicial review. Section 701(f) also, however, contains several special procedural requirements which ensure that the process of judicial review will not undo the benefits which the bill is designed to produce of reducing an inappropriate FOIA processing burden on the CIA.

This type of reconcilation of positions of interested parties was the hallmark of development of H.R. 5164. I believe this bill reflects the legislative process at its best.

H.R. 5164 ensures that existing public access to CIA records under the FOIA is not impaired, while improving CIA operational security and CIA responsiveness to FOIA requests.

I urge my colleagues to support enactment of H.R. 5164.

● Mr. CONYERS. Mr. Speaker, I rise in strong opposition to H.R. 5164, the Central Intelligence Agency Informatioin Act. This act would grant the Central Intelligence Agency an unprecedented exemption from the application of the Freedom of Information requests for its "operational" files.

The advocates of H.R. 5164 are using a political tactic which has become quite popular during this administration. It is a rather facile strategy: when you want to make major changes in public policy but recognize that they will not go unchallenged by the American people, simply offer your proposals under the guise of mere procedural reform. This gambit has been used many times in the past 4 years. When the President did not like the proposals of the Commission on Civil Rights, he did not publicly announce his disagreements with the Commission and offer any kind of justification for his positions; rather, he simply tried to change the method with which appointments are made to the Commission—conveniently changing their recommendations at the same time. Similarly, when the President wanted to make major cuts in spending for health and education, he hid the cuts in his New Federalism program of block grants, hoping that a change in the method of disbursing funds would detract from the substantial change in the amount of funds disbursed. This administration has persuaded the Supreme Court to overturn its own precedents regarding the exclusionary rule by obtaining exceptions when mistakes—that is, violations—are made in "good faith." In each of these examples, the pattern is the same. A major shift in policy was cloaked in a "technical" change. It is left to the opponents of the proposed change to spell out its actual effects.

In this case, the self-anointed target of bureaucratic efficiency is the Central Intelligence Agency. The CIA asserts that H.R. 5164 is warranted by the backlog of Freedom of Information requests at the Central Intelligence Agency, the interminable delay in the processing of such requests, and the rarity with which meaningful information is actually disseminated in accordance with these requests. The Agency is modestly offering a proposal to improve this situation: a request that its operational files simply be exempted from the Freedom of Information Act. Essentially, the CIA is asking us to respond to its current intransigence to and phobia of releasing information by enshrining it into law.

Why does the CIA consider the passage of this bill such a high priority? The Agency makes no claims that sensitive information is being released under current rules. The existing provisions of the FOIA make adequate provisions for national security. Not once in the history of the act has judicial review resulted in the improper release of sensitive information. The CIA instead asserts that an exemption is needed to remove a bottleneck of paperwork caused by the act. It is not concerned by the fact that such an argument would be absurd if used by most agencies. If the Social Security Administration was to claim that it was too overworked to process FOIA requests, Congress would properly seek a means to expedite the processing on a long-term basis. It would not offer reduced responsibility through an exemption from fundamental accountability as a solution. The CIA claims that it is unique because useful information is released so infrequently from operational files in response to FOIA requests. This cost-benefit analysis is simply not legitimate. In fact, the scarcity of information released by the Agency only makes that information all the more valuable. Moreover, our constitutional values will not allow us to place the elimination of some redtape in an Agency office above the right of citizens to even attempt to discover the activities of their own Government.

H.R. 5164 would have several chilling effects which belie the ostensibly innocuous goals claimed by its proponents. New obstacles to the release of information would be erected in the paths of FOIA requesters. Under this legislation, the Freedom of Information Act could be used to obtain CIA documents only after the applicant has persuaded an oversight agency or committee, on the basis of alleged illegality or impropriety on the part of the Agency, to investigate the specific subject addressed by the documents. As the CIA must realize, documents from the Agency are often the very information needed to establish the criteria for an investigation. In effect, the CIA would not even be required to consider releasing documents unless its activities in a certain area have already been established by a different

source of information. Even if an investigative body has been persuaded to initiate an inquiry into a certain subject, requests for CIA documents would be limited to those relevant to the "specific subject matter" of the investigation. Needless to say, the CIA would be very selective in determining what constitutes the "specific subject matter."

Finally, this bill would create another deterrent to citizen-initiated FOIA requests. There is no provision which would mandate the CIA to provide attorney's fees for a litigant who forces the Agency to comply with this legislation. This omission makes a challenge to the Agency by the vast majority of citizens in the United States financially impossible. The FOIA itself was rarely used before attorney's fees became the responsibility of any violator of the act.

The CIA argues that H.R. 5164 would not have an adverse effect upon the flow of information because few documents are released by the Agency under present regulations. This reasoning ignores the value of simply knowing that such documents exist. Under current law, the CIA must answer each FOIA request, if not by actually releasing materials, then by listing all existing documents and providing a justification for the withholding of these documents. The knowledge of the existence of such documents is by itself valuable to researchers and other FOIA applicants. Yet H.R. 5164 would remove this requirement, and with it, the ability of a citizen to even determine that he is the subject of files at the Agency.

H.R. 5164 would set a highly questionable precedent of self-regulation by an agency regarding compliance with the FOIA. In hearings before the Senate, representatives from the CIA testified that the Director of Central Intelligence alone would have the authority to designate files as being "operational" and thus subject to exemption from the FOIA. If such a designation was disputed in court, the CIA would need only submit a written statement reiterating its decision to the court, and would not be required to submit the disputed documents themselves for judicial review. In other words, the Director of the CIA would be answerable to no one for such a decision. The CIA has failed to demonstrate to Congress and to the American people that it can be entrusted with such a power. The recent mining of Nicaraguan harbors, as well as past activities directed against the Reverend Martin Luther King, Jr., and others in the civil rights movement prove that the CIA cannot be left to its own judgment concerning the propriety of its activities. If we grant the CIA this power of self-regulation, not only will we be granting the CIA a carte-blanche unwarranted by it's previous activities, we also will be inviting other law-enforcement agencies to seek this same exemption. Thus, we would be initiating a new and dangerous trend of curbing judicial review over executive agencies.

Proponents of H.R. 5164 claim wide support for their measure, but the support is shallow. The American Civil Liberties Union, whose support was crucial to the bill's success up to now, is now reconsidering its decision. H.R. 5164 is opposed by such groups as the Newspaper Guild, the Society of Professional Journalists, the Reporters Committee for Freedom of the Press, the Radio-Television News Directors Association, the American Historical Association, and the National Committee Against Repressive Legislation. The fact that this measure is being considered under suspension of rules is an indication that its backers realize that careful consideration of the bill would not be to its benefit.

By now, the actual motives behind this bill should be clear. The CIA feels that it is an opportune time to push through a bill which would not stand up to real scrutiny. I urge my colleagues to judge this bill on its actual merits, not on the desire for clean desks claimed by its proponents. H.R. 5164 represents an attempt to roll back the rights of information which have been obtained so recently, and the bill should be judged as such.●

● Mr. STUMP. Mr. Speaker, H.R. 5164, the Central Intelligence Agency Information Act is the culmination of years of congressional effort to grapple with the problems the Freedom of Information Act poses for the Nation's primary foreign intelligence agency. Since 1977, subcommittees of the House and Senate Intelligence Committees, and of the House Government Operations Committee and the Senate Judiciary Committee, have held a number of hearings on these problems. These committees have all reached the conclusion that legislation to modify the application of the Freedom of Information Act to the CIA is required. Bills to make the necessary modifications have been under consideration in the Congress since 1980. The many views presented to the Congress concerning the legislation have all been considered at great length. H.R. 5164 is the carefully crafted result of these years of congressional deliberation.

The bill modifies the application of the FOIA to the CIA by removing specifically defined CIA operational files from the FOIA process. These files hold the CIA's most sensitive secrets, such as the names of CIA sources abroad or the high technology methods for overhead reconnaissance of the military installations of hostile nations. The secrets contained in these operational files are, of course, kept secret under the current exemptions in the FOIA for classified information and information relating to intelligence sources and methods. That is precisely the point of H.R. 5164—it makes no sense to continue to require CIA personnel to conduct FOIA security reviews of these records on a line-by-line basis in response to FOIA requests, since experience has shown that nothing meaningful can ever be released to the public from these operational files anyway. The substantial amount of time currently required by statute to be wasted in conducting the line-by-line review of these records which can't be released, produces a big FOIA backlog at CIA which prevents CIA from processing in a timely fashion FOIA requests for material which can be released.

H.R. 5164 will take care of the problem. As a result of H.R. 5164:

Taxpayers' money will no longer be wasted by requiring CIA officers to spend their time conducting FOIA reviews of sensitive operational records that cannot be released to the public under the FOIA.

CIA sources abroad will be reassured that the United States can keep secret the fact of their cooperation with the CIA.

Skilled CIA operations officers who are now diverted away from their operational duties to conduct FOIA reviews will devote themselves full-time to the intelligence work they are hired, paid, and trained to do.

The risk of accidental or unknowing disclosure under the FOIA of sensitive operational information will be reduced.

CIA backlogs in FOIA processing will be reduced, improving the timeliness of CIA responses to FOIA requests from the public.

H.R. 5164 has been drawn carefully to ensure that these goals will be achieved without diminishing the amount of meaningful information currently available to the public under the FOIA. The bill meets the Nation's needs for both an effective intelligence agency and an informed citizenry.

I urge my colleagues to vote to suspend the rules and pass H.R. 5164.●

● Mr. HORTON. Mr. Speaker, I rise in support of H.R. 5164, the Central Intelligence Agency Information Act.

H.R. 5164 provides a limited exemption from the Freedom of Information Act [FOIA] for specifically defined operational files maintained by the Central Intelligence Agency. The bill will relieve the CIA from the requirement under the FOIA to search and review records in these operational files that, after line-by-line review, almost invariably prove to be exempt from disclosure under the FOIA. The bill will thereby improve the ability of the CIA to respond to FOIA requests from the public in a more timely and efficient manner, without reducing the amount of meaningful information releasable to the public.

The bill contains several exemptions which will assure that requests for certain types of information will be fulfilled, notwithstanding the fact that those records are maintained in operational files. Those exemptions are for: First, information concerning U.S.

citizens and permanent resident aliens requested by such individuals about themselves; second, information regarding covert activities the existence of which is no longer classified; and third, information concerning any CIA intelligence activity that was improper or illegal and that was the subject of an investigation for alleged illegality or impropriety.

The Committee on Government Operations amended the bill to provide an additional means of overseeing the CIA's compliance with FOIA during the first 2 years of implementation of this legislation. The committee also added an amendment that guarantees the effectiveness of the exemption mentioned above for information requested by individuals about themselves. This amendment, contained in section 2(c) of the bill, clarifies the relationship between the Freedom of Information Act and the Privacy Act to state explicity in the law that no agency can use the Privacy Act as a basis for denying an individual access pursuant to the Freedom of Information Act to information in Government files about him or herself. This was the understanding of the Congress when the Privacy Act and the 1974 amendments to the Freedom of Information Act were enacted. But that interpretation has been called into question recently by a couple of circuit court of appeals decisions, and by a change in policy guidance from OMB and regulations by the Department of Justice. By this amendment, we are simply maintaining the status quo which existed before the Justice Department and OMB issued their unwise reversals of policy.

I am glad to support this bill and urge my colleagues to do likewise. I hope that this bill in its current form can be quickly cleared for the President's signature.●

● Mr. MAZZOLI. Mr. Speaker, H.R. 5164 is a narrowly focused measure which provides the CIA with limited, but important, relief from Freedom of Information Act processing requirements, while preserving undiminished the amount of meaningful information now releasable by the CIA to FOIA requesters.

H.R 5164 has been favorably reported by both the Intelligence Committee and the Committee on Government Operations, and is supported by both the CIA and the ACLU. A similar measure passed the other body last November.

This measure does not exempt the CIA from the Freedom of Information Act. In the past the CIA had sought to convince the Congress and the Intelligence Committees of the need for such a total exemption—but could not make its case. We are here today because the CIA now recognizes that it is neither feasible nor desirable for it to be totally excluded from FOIA coverage. We are also here because some of the Agency's outside critics have agreed that it is reasonable and prudent to afford the CIA some FOIA relief, and have made significant contributions to the drafting process. And, we are here today because the legislative effort on this measure has been characterized by a non-partisan, cooperative spirit from the beginning.

The Freedom of Information Act currently applies to the Central Intelligence Agency in precisely the same manner that it applies to other Federal agencies. Thus, in response to a request for reasonably described records, the CIA must: First, search its records systems for records responsive to the FOIA request; second, review the responsive records retrieved from its files to determine which records fall within FOIA exemptions and need not be disclosed; and third, disclose all reasonably segregable portions of the responsive records which do not fall within one or more of the nine FOIA disclosure exemptions.

A decade of experience has shown that most CIA operational files—those which contain the most sensitive information directly relating to intelligence sources and methods—contain few, if any, items which need to be disclosed to requesters under the FOIA. The records contained in these operational files fall within the FOIA exemptions protecting classifed information and information relating to intelligence sources and methods.

Nevertheless, the CIA must search and review these records in response to FOIA requests on a line-by-line, page-by-page basis.

This process of searching and reviewing CIA operational records systems costs money and absorbs a substantial amount of time of experienced CIA operational personnel. This considerable expenditure of time and money usually contributes nothing to the goal of the FOIA of an informed citizenry since routinely almost no records are released to the public after this detailed search.

In fact, these search procedures actually hinder achievement of that goal because the time-consuming process of reviewing sensitive CIA operational records creates 2 to 3 year delays in the Agency's ability to respond to FOIA requests for information which is releasable.

H.R. 5164 would permit the Director of Central Intelligence to exempt operational files from the search and review process of the FOIA.

Operational files are defined in the bill as: First, files in the Directorate of Operations "which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services"; Second, files in the Directorate for Science and Technology "which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems"; and third files in the Office of Security "which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources."

Files within these three components which do not meet the statutory definitions will not be eligible for exemption from search and review. Furthermore, records in all other parts of the CIA, including information which orginated in the operational components, will continue to be subject to search and review. For example, all documents which go to the Director of Central Intelligence, even if they concern the most intimate details of an operation, will be subject to search and review. Furthermore, all intelligence collected through human and technical means will continue to be covered by the FOIA because the operational components forward such information to the analytic components of the Agency. What will be exempt from search and review is information about how intelligence is collected—for example, how a source was spotted and recruited, how much he is paid, and the details of his meetings with his case officer. Such information is invariably exempt from disclosure under the FOIA and will continue to be exempt under any conceivable standard for classification.

In some instances, collected intelligence is so sensitive that it is disseminated to analysts and policymakers on an eyes only basis and then returned to the operational component for storage. To cover these situations and to guard against the possibility of an expansion of this practice to circumvent the intent of this legislation, the bill also includes a proviso that files maintained within operational components as the sole repository of disseminated intelligence cannot be exempt from search and review.

The new exemption would not apply—I repeat, would not apply—To: First, requests by American citizens for any information pertaining to themselves; Second, requests for information concerning a covert action the existence of which is not classified; or Third, requests for information concerning the specific subject matter of an investigation by the two Intelligence Committees, the Department of Justice, the CIA, or the Intelligence Oversight Board into improper or illegal intelligence activities.

These three exceptions are crucial in ensuring that the new statute does not dilute the force of the principles upon which the Freedom of Information Act is based. They preserve a citizen's access to whatever files the CIA may keep on him, preserve access to information of importance to informed public debate, and preserve access to information which may illuminate or reveal past or present intelligence abuses.

Actions taken by the CIA pursuant to this legislation will be subject to the de novo judicial review provisions cur-

rently applicable to all FOIA requests. However, procedural safeguards have been added to H.R. 5164 which insure that the judicial review process does not permit the courts to reimpose the search and review burdens on the Agency which the bill is intended to eliminate.

Other provisions of H.R. 5164: First, require the Director of Central Intelligence to review, at least once every 10 years, the exemptions of operational files in force to determine whether the exemptions may be lifted from any files or portions of files; second, require the Director of Central Intelligence to report by June 1, 1985, to the Intelligence Committees on the feasibility of conducting a program of systematic review for declassification and release of classified CIA information of historical value; and third, apply the measure retroactively to all pending FOIA requests, and to all civil actions to enforce FOIA access to CIA records which were not filed prior to February 7, 1984.

H.R. 5164 contains an important section which was added by the Committee on Government Operations and which I fully support. The provision, which the gentleman from Oklahoma will explain in more detail, amends the Privacy Act to make clear that the Privacy Act is not a withholding statute for purposes of FOIA exemption (b)(3).

I urge my colleagues to support the changes in the FOIA contained in H.R. 5164. They are reasonable changes designed to eliminate waste, improve the efficiency of FOIA processing, and provide increased protection to intelligence sources and methods.

In testimony before the Senate Intelligence Committee, Deputy Director McMahon pledged that no further relief from the FOIA for the intelligence community beyond what is contained in this measure will be sought by the administration.

H.R. 5164 does not represent a chipping away of the FOIA as it applies to CIA. It is not the camel's nose under the tent. Rather, by ensuring more timely responses to requests and preserving access to currently releasable information, H.R. 5164 recognizes the continuing vitality and importance of FOIA as it relates to the Central Intelligence Agency.●

● Mr. ERLENBORN. Mr. Speaker, H.R. 5164 is the product of deliberations over several Congresses on how to balance the needs of the CIA to keep certain information secret and the needs of the public in our free society to be appropriately informed on the activities of the CIA.

Two Congresses ago, while I was serving on the Government Operations Subcommittee on Government Information, we considered legislation similar in concept to that which is before the House today. At that time there was no consensus on the issues of the nature and extent of the burden imposed on the CIA by being subject to the Freedom of Information Act. Nevertheless, those hearings raised the issues—particularly judicial review—which would have to be resolved before this legislation could be enacted.

In my judgment, those issues have now been resolved. This legislation has been carefully crafted. It includes provisions which will provide the Congress with the oversight mechanisms needed to monitor the balance we have reached.

I would also like to express my particular appreciation for the amendment added by our Committee on Government Operations to clarify the relationship between the Freedom of Information Act and the Privacy Act. As one of the authors of the Privacy Act and the 1974 amendments to the Freedom of Information Act, I have been troubled to see that a couple of circuit courts of appeals have rendered decisions which are contrary to the goals of those two acts.

Even more troubling was the decision of the Justice Department and the Office of Management and Budget last March to reverse the policy guidance and regulations which have been in effect since the Privacy Act took effect in 1975. This reversal of policy has the effect of restricting an individual's access to Government files containing records about him or herself in a way not contemplated by the Congress in 1974.

The amendment contained in section 2(c) of the bill restores the relationship between the two laws which Congress intended in 1974, and which the executive branch has honored for all but 6 months of the time since.

All parties that have been involved in bringing this legislation to this point are to be congratulated for their efforts. It is a good bill and is deserving of our support. I hope that we will pass the bill and that the other body will quickly ratify our work and send this legislation to the President for his signature.●

● Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 5164, the Central Intelligence Agency Information Act. We in the Intelligence Committee like to adhere to the principle of open government as much as we possible can, but much of our work takes place out of public view because we have not found a magic way to keep the American people informed about U.S. intelligence activities without letting hostile foreign nations know the same things. Even some of the public work of our committee, such as the annual intelligence authorization bill, has secret aspects to it. That authorization bill is public, but it doesn't contain the actual budgeted amounts which other authorization bills contain.

It is thus a great pleasure to the members of our committee to be able to deal, as we have in considering H.R. 5164, with an issue of great importance in the same public and deliberative fashion as most other legislation in the Congress is considered.

The Intelligence Committee and the Committee on Government Operations have fully vetted this legislation. The concerns of all have been considered carefully and, indeed, have been favorably addressed by the legislation. I note that it is somewhat of a monument to the legislative process that we have produced a bill on the question of public access to governmental information that is fully supported by both the Central Intelligence Agency and the American Civil Liberties Union.

The bill ensures that the public will continue to have access to meaningful CIA information under the FOIA to the full extent that they do today. While preserving such access, the bill rationalizes the FOIA administrative process at CIA so that the CIA is not required to spend time and taxpayers' money reviewing and justifying the withholding of its most sensitive operational records that everybody agrees are properly classified and must remain secret. The taxpayers' resources allocated to CIA-FOIA activities will instead be employed productively in reviewing CIA records which may contain information which can be released to the public. This is a good government bill—it should save some money for the taxpayers, speed up service to the members of the public who make FOIA requests, and improve operational security in U.S. intelligence activities, all while preserving undiminished the amount of meaningful CIA information available to the public under the FOIA.

Mr. Speaker, I will vote for H.R. 5164 and I ask my colleagues to join me.●

Mr. WHITEHURST. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. BOLAND], that the House suspend the rules and pass the bill, H.R. 5164, as amended by the Committee on Government Operations.

The question was taken.

Mr. WEISS. 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 pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5164.

the health and welfare of abused or neglected children, including instituting legal proceedings. The new clause (K) includes specific statutory reference to the authority to institute legal proceedings only because questions have occasionally been raised about the authority of particular child protective services agencies to take such actions in cases involving withholding of medically indicated treatment from disabled infants with life-threatening conditions. Under new clause (K), States have the flexibility to determine the specific agency, or agencies within their child protective services systems, to exercise that authority. State authority to utilize other agencies, in addition to the child protective services system, for these purposes would be unaffected by the legislation.

ADDITIONAL GRANTS TO STATES

The amendment (in section 201(c)(2)) would add a new subsection 4(c) to the Act to authorize the Secretary to make additional grants to the States for the purposes of developing, establishing, and operating, or implementing, (1) the procedures or programs required under the new clause (K), (2) information and education programs or training programs for the purposes of improving the provision of services to disabled infants with life-threatening conditions) for professional and paraprofessional personnel concerned with the welfare of such infants, including personnel employed in child protective services programs and health-care facilities, and for parents of such infants; and (3) programs to help obtain or coordinate necessary services, including existing social and health services and financial assistance for families with disabled infants with life-threatening conditions as well as those services necessary to facilitate adoptive placement of such infants who have been relinquished for adoption.

REGULATIONS AND GUIDELINES

The amendment (in section 202) would direct the Secretary, within 90 days of the date of enactment, to publish for public comment proposed regulations to implement the requirements of the new clause (K), and to publish final such regulations within 180 days after enactment.

It also would direct the Secretary to publish, within 60 days after enactment, interim model guidelines to encourage the establishment within health-care facilities of committees which would serve the purposes of educating hospital personnel and families of disabled infants with life-threatening conditions, recommending institutional policies and guidelines concerning the withholding of medically indicated treatment from such infants, and offering counsel and review in cases involving disabled infants with life-threatening conditions. Not later than 150 days after the date of enactment and after notice and opportunity for public comment, the Secretary would be required to publish the model guidelines.

REPORT ON FINANCIAL RESOURCES

The amendment (in section 203) would require the Secretary to conduct a study to determine the most effective means of providing Federal financial support other than the use of funds provided through the Social Security Act, for the provision of medical treatment, general care, and appropriate social services for disabled infants with life-threatening conditions and report the results of such study to the appropriate committees of the Congress not later than 270 days after the date of enactment. The report to the appropriate Committees would also be required to contain such recommendations for legislation to provide such financial support as the Secretary considers appropriate.

TRAINING, TECHNICAL ASSISTANCE AND CLEARINGHOUSE ACTIVITIES

The amendment (in section 204) would direct the Secretary to provide, directly or through grants or contracts with public or private nonprofit organizations, for training and technical assistance programs to assist states in meeting the requirements of new clause (K) and for establishing and operating national and regional information and resource clearinghouses to provide the most current and complete information regarding medical treatment procedures and resources and community resources for services and treatment for disabled infants with life-threatening conditions. The funds to carry out these activities would be provided from the funds, other than those funds made available for basic States grants under section 4(b)(5), otherwise available to the Secretary to carry out activities under the Act (meaning the Child Abuse Prevention and Treatment Act).

STATUTORY CONSTRUCTION

The amendment (in section 205) would provide that no provision of or any amendment made by the Act is intended to affect any right or protection under section 504 of the Rehabilitation Act of 1973.

It would also provide that no provision of or any amendment made by the Act may be construed to authorize the Secretary or any other governmental entity to establish standards prescribing specific medical treatments for specific conditions, except to the extent that such standards are authorized by other laws.

It would also contain a standard severability provision in the event that a particular provision of or any amendment made by the Act is declared unconstitutional by a court.

AUTHORIZATION OF APPROPRIATIONS

The amendment (in section 206) would increase the authorization of appropriations—from the levels in the bill as reported ($27 million for FY 1984, $34 million for FY 1985, $35.5 million for FY 1986, and $37.08 million for FY 1987)—under the Act by $5,000,000 for each fiscal year for the purpose of making the additional grants to the states to implement the provisions of new clause (K) and to establish the information and education and training programs and the programs to help obtain or coordinate necessary services for disabled infants with life-threatening conditions authorized under the new section 4(c).

The amendment would retain the earmark contained in S. 1003 as reported of $9,000,000 in each fiscal year for the carrying out of the provisions of section 4(b)(1), relating to basic state grants, and $4,000,000 in each fiscal year for identification, treatment, and prevention of sexual abuse.

It is the firm intention of the sponsors that appropriations for the new section 4(c) program should be in addition to appropriations at the authorization levels contained in the amendment for the section 4(b)(1) basic state grant program and for the sexual abuse, identification, treatment, and prevention program and that neither of these existing programs should be reduced in funding in order to provide funds for the new section 4(c) program.

EFFECTIVE DATES

The provisions of the Act and amendments made by the Act would be effective upon the date of enactment, except that the amendment establishing new clause (K) as a requirement for participation in the state grant program does not become effective until one year after the date of enactment.

The amendment further provides that in the event that, prior to the clause (K) effective date, funds have not been appropriated pursuant to section 4 of the Act (as amended by section 104 of this Act) for the purpose of grants under new section 4(c), the Secretary may grant to any State which has not met the requirements of new clause (K) a waiver of such requirements for a period of not more than one year, if the Secretary finds that such State is making a good faith effort to comply with such provisions.

AUGUSTUS F. HAWKINS,
JOE GAYDOS,
MARIO BIAGGI,
PAUL SIMON,
GEO. MILLER,
AUSTIN J. MURPHY,
BALTASAR CORRADA,
PAT WILLIAMS,
DENNIS E. ECKART,
JOHN N. ERLENBORN,
BILL GOODLING,
TOM COLEMAN,
STEVE BARTLETT,
JOHN MCCAIN,
*Managers on the Part of the House.*
ORRIN HATCH,
JEREMIAH DENTON,
DON NICKLES,
EDWARD M. KENNEDY,
CHRIS DODD,
*Managers on the Part of the Senate.*

## APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 4164, VOCATIONAL-TECHNICAL EDUCATION ACT OF 1984

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint an additional conferee on the part of the House on H.R. 4164, the Vocational-Technical Education Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following additional conferee: Mr. TAUKE.

There was no objection.

## CENTRAL INTELLIGENCE AGENCY INFORMATION ACT

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the order of the House of September 18, 1984, the unfinished business is the question de novo of suspending the rules and passing the bill, H.R. 5164, as amended, on which further proceedings were postponed on Monday, September 17, 1984.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. BOLAND] that the House suspend the rules and pass the bill, H.R. 5164, as amended.

The question was taken.

RECORDED VOTE

Mr. WEISS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 369, noes 36, not voting 27, as follows:

[Roll No. 402]

AYES—369

| | | |
|---|---|---|
| Addabbo | Feighan | Lott |
| Akaka | Fiedler | Lowery (CA) |
| Albosta | Fields | Lujan |
| Anderson | Fish | Luken |
| Andrews (NC) | Flippo | Lundine |
| Andrews (TX) | Florio | Lungren |
| Annunzio | Foglietta | Mack |
| Anthony | Foley | MacKay |
| Applegate | Ford (MI) | Madigan |
| Archer | Ford (TN) | Marlenee |
| Aspin | Fowler | Marriott |
| Badham | Frank | Martin (IL) |
| Barnard | Franklin | Martin (NC) |
| Barnes | Frenzel | Martin (NY) |
| Bartlett | Frost | Martinez |
| Bateman | Gaydos | Matsui |
| Bates | Gejdenson | Mavroules |
| Bellenson | Gekas | Mazzoli |
| Bennett | Gephardt | McCain |
| Bereuter | Gibbons | McCandless |
| Berman | Gilman | McCloskey |
| Bevill | Gingrich | McCollum |
| Biaggi | Glickman | McCurdy |
| Billirakis | Gonzalez | McDade |
| Bliley | Goodling | McEwen |
| Boehlert | Gore | McHugh |
| Boggs | Gradison | McKernan |
| Boland | Green | McKinney |
| Bonior | Gregg | McNulty |
| Bonker | Guarini | Mica |
| Borski | Gunderson | Michel |
| Bosco | Hall (IN) | Mikulski |
| Boucher | Hall (OH) | Miller (CA) |
| Britt | Hall, Ralph | Miller (OH) |
| Brooks | Hall, Sam | Mineta |
| Broomfield | Hamilton | Minish |
| Brown (CA) | Hammerschmidt | Moakley |
| Brown (CO) | Hance | Molinari |
| Broyhill | Hansen (ID) | Mollohan |
| Bryant | Hansen (UT) | Montgomery |
| Burton (IN) | Harkin | Moody |
| Byron | Harrison | Moore |
| Campbell | Hartnett | Morrison (WA) |
| Carney | Hatcher | Mrazek |
| Carper | Hefner | Murtha |
| Carr | Heftel | Myers |
| Chandler | Hertel | Natcher |
| Chappell | Hightower | Neal |
| Chappie | Hiler | Nelson |
| Clarke | Hillis | Nichols |
| Clinger | Holt | Nielson |
| Coats | Hopkins | Nowak |
| Coelho | Horton | O'Brien |
| Coleman (MO) | Howard | Oakar |
| Coleman (TX) | Hoyer | Oberstar |
| Collins | Hubbard | Obey |
| Conte | Huckaby | Olin |
| Cooper | Hughes | Ortiz |
| Corcoran | Hunter | Oxley |
| Coughlin | Hutto | Packard |
| Coyne | Hyde | Panetta |
| Craig | Ireland | Parris |
| Crane, Daniel | Jacobs | Pashayan |
| Crane, Philip | Jeffords | Patman |
| D'Amours | Jenkins | Patterson |
| Daniel | Johnson | Pease |
| Dannemeyer | Jones (NC) | Penny |
| Darden | Jones (OK) | Pepper |
| Daschle | Jones (TN) | Petri |
| Daub | Kaptur | Pickle |
| Davis | Kasich | Porter |
| de la Garza | Kazen | Price |
| Derrick | Kemp | Pritchard |
| DeWine | Kennelly | Pursell |
| Dickinson | Kildee | Quillen |
| Dicks | Kindness | Rahall |
| Dingell | Kleczka | Rangel |
| Donnelly | Kolter | Ratchford |
| Dowdy | Kramer | Ray |
| Downey | LaFalce | Regula |
| Dreier | Lagomarsino | Reid |
| Duncan | Lantos | Richardson |
| Durbin | Latta | Ridge |
| Dwyer | Leach | Rinaldo |
| Dyson | Lent | Ritter |
| Early | Levin | Roberts |
| Eckart | Levine | Robinson |
| Edwards (AL) | Levitas | Rodino |
| Emerson | Lewis (CA) | Roe |
| English | Lewis (FL) | Roemer |
| Erdreich | Lipinski | Rogers |
| Erlenborn | Livingston | Rose |
| Evans (IA) | Lloyd | Rostenkowski |
| Evans (IL) | Loeffler | Roth |
| Fascell | Long (LA) | Roukema |
| Fazio | Long (MD) | Rowland |
| Rudd | Snowe | Vandergriff |
| Russo | Snyder | Vento |
| Sabo | Solarz | Volkmer |
| Sawyer | Solomon | Vucanovich |
| Schaefer | Spence | Walgren |
| Scheuer | Spratt | Walker |
| Schneider | St Germain | Watkins |
| Schroeder | Staggers | Waxman |
| Schulze | Stangeland | Wheat |
| Schumer | Stenholm | Whitehurst |
| Sensenbrenner | Stokes | Whitley |
| Sharp | Stratton | Whittaker |
| Shaw | Stump | Williams (MT) |
| Shumway | Sundquist | Winn |
| Shuster | Swift | Wirth |
| Sikorski | Synar | Wise |
| Siljander | Tallon | Wolf |
| Sisisky | Tauke | Wolpe |
| Skeen | Tauzin | Wortley |
| Skelton | Taylor | Wright |
| Slattery | Thomas (CA) | Wyden |
| Smith (FL) | Thomas (GA) | Yates |
| Smith (IA) | Torricelli | Yatron |
| Smith (NE) | Traxler | Young (AK) |
| Smith (NJ) | Udall | Young (FL) |
| Smith, Denny | Valentine | Young (MO) |
| Smith, Robert | Vander Jagt | Zschau |

NOES—36

| | | |
|---|---|---|
| Ackerman | Edgar | Murphy |
| AuCoin | Edwards (CA) | Ottinger |
| Bedell | Fuqua | Owens |
| Boxer | Garcia | Paul |
| Burton (CA) | Gray | Roybal |
| Clay | Hawkins | Savage |
| Conyers | Hayes | Selberling |
| Crockett | Kastenmeier | Stark |
| Dellums | Kostmayer | Torres |
| Dixon | Leland | Towns |
| Dorgan | Lowry (WA) | Weaver |
| Dymally | Mitchell | Weiss |

NOT VOTING—27

| | | |
|---|---|---|
| Alexander | Gramm | Shannon |
| Bethune | Kogovsek | Shelby |
| Boner | Leath | Simon |
| Breaux | Lehman (CA) | Studds |
| Cheney | Lehman (FL) | Weber |
| Conable | Markey | Whitten |
| Courter | McGrath | Williams (OH) |
| Edwards (OK) | Moorhead | Wilson |
| Ferraro | Morrison (CT) | Wylie |

□ 1600

Mr. TOWNS changed his vote from "aye" to "no."

Mr. GEJDENSON and Mr. MATSUI changed their votes from "no" to "aye."

So (two-thirds have voted in favor thereof) the rules were suspended, the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the Report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3755) "An act to amend titles II and XVI of the Social Security Act to provide for reform in the disability determination process."

## PROVIDING FOR CONSIDERATION OF H.R. 3082, EMERGENCY WETLANDS RESOURCES ACT OF 1983

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 579 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 579

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3082) to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and to the amendment made in order by this resolution and which shall continue not to exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Merchant Marine and Fisheries, Interior and Insular Affairs, and Public Works and Transportation now printed in the bill, it shall be in order to consider the ammendment in the nature of a substitute printed in the Congressional Record of September 11, 1984 by Representative Jones of North Carolina as an original bill for the purpose of amendment under the five-minute rule. Said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1947 (Public Law 93-344), clause 7 of rule XVI, and clause 5(a) of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1610

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.