June 27, 1966

GENERAL

LE/FE14-1
FE14-1

Dear Mr. Murray:

Thank you for your letter. It was good to see you and I know you can take pride in the passage of the Freedom of Information Bill. I personally also hope it contributes to increasing the flow of information to the American people from their government.

With best regards,

Sincerely,

Bill Moyers
Special Assistant
to the President

Mr. J. Edward Murray
The Arizona Republic
Phoenix, Arizona 85001

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COURIER-JOURNAL AND LOUISVILLE TIMES
SECRETARY

NEWBOLD NOYES, JR.
WASHINGTON STAR
TREASURER

AMERICAN SOCIETY OF NEWSPAPER EDITORS

OFFICE OF THE FoI AND PRESS-BAR CHAIRMAN
J. EDWARD MURRAY
ARIZONA REPUBLIC
PHOENIX, ARIZONA 85001

June 21, 1966

Thank him - I know he can take pride in passage of the Freedom of Information Bill. I personally also hope it contributes to increased flow of info to American people from their govt. B

The Honorable Bill D. Moyers
The White House
Washington, D. C.

Dear Mr. Secretary:

With the unanimous passage by the House of the Freedom of Information bill, I am enclosing a representative selection of editorials in favor of the legislation for the President's consideration.

When we discussed the bill a week ago, you suggested that a sharply briefed exhibit of the editorials which ASNE has been collecting from around the country might be useful.

I have pared the collection to ten items, eight editorials and two articles representing large, medium, and small newspapers and the largest press association.

The editorials are from:

The Wichita Eagle -- Editor and Publisher, John Colburn, who is chairman of the American Publishers Association Federal Laws Committee.

The Portland Oregonian -- Editor, Robert Notson, current ASNE president.

The Dallas Times Herald -- Executive Editor, Felix McKnight, a long-time acquaintance of President Johnson.

The Seattle Post-Intelligencer -- It makes the point you made that the press must not consider this bill a cure-all for secrecy, but must continue to bear the responsibility for persistent and incisive reporting.

The Whittier Daily News (California) and the Ann Arbor News as representative of smaller newspapers.

more

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The Los Angeles Times as one of the largest newspapers.

The Cincinnati Enquirer -- Editor, Brady Black, a long-time FOI crusader and a member of the present ASNE FOI committee.

The articles are from:

The Chicago Daily News for a big paper analysis of what the bill is and is expected to accomplish.

The Arizona Republic for a typical publication of the Sunday blockbuster piece on the bill which the Associated Press distributed to its entire membership, and which a great many newspapers used.

I can't presume to summarize the most cogent arguments made for the bill by these and the other newspapers throughout the nation. But I will list here in writing some of the points which I tried to make in the discussion we had last week with presidential counsel Milton Semer and Ben Cole of The Arizona Republic's Washington staff.

I contended:

-- that FOI crusaders have been fighting for just this bill for a dozen years and need this show of substantial progress;

-- that the bill will have an important psychological and actual effect on the bureaucracy by reversing the method of operation from withholding to disclosing;

-- that the bill will knock down all the withholding loopholes which have made a mockery of the Administrative Procedure Act, turning it into a closed instead of the open records law it was intended to be;

-- that the 'available to any person' clause will be a backfire against all the current talk of a credibility gap between the people and their government;

-- and that court enforcement clause will put the bureaucracy on notice not to make any withholding decisions which wouldn't stand up under review.

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At the close of our discussion, you evinced interest in the speech which Lyndon B. Johnson made as the then newly elected Vice President before the Associated Press Managing Editors convention at Williamsburg on November 19, 1960. In case you have not had time to look up the speech, I enclose a copy of it as reprinted in "The APME Red Book 1960," which details the proceedings of that convention.

Please excuse this long letter. And thank you again for seeing us at the White House.

Sincerely,

J. Edward Murray
Managing Editor

JEM/js

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The DAILY NEWS

Leo E. Owens, Chairman of the Board
Mynatt Smith, Editor and Publisher

Page 4A Whittier, Calif., Wed., May 11, 1966

Another Freedom

For many years any federal government agency could clam up on information that might be helpful to the voting and taxpaying public by simply declaring that such information was being withheld "for good cause found." That phrase is a part of the existing Administrative Procedure Act.

But such simple controls over information are on the way out, thanks in part to two California congressmen, both of whom are members of the House Government Operations Committee — Chet Holifield of Montebello and John Moss of Sacramento. This is the committee which recently passed unanimously a bill already approved in the Senate (S 1160) which, in the words of Moss, a long-time leader in the effort for more and freer public data on government activity, will allow "the fullest possible access to government information."

The measure still must win House passage and the President's approval, but the fact that it has cleared the Senate and met no opposition whatever in the important House committee indicates it is headed for passage.

The difficulty that it will correct has not been so much the fact that government officials in charge of departments have taken negative attitudes toward making information public. It has been the fact that to this day there is not a single law on the federal statute books which affirmatively says that government of the people, by the people and for the people shall be made available to the people in the form of helpful information.

The new legislation did not pass without opposition. Indeed, in the House subcommittee hearings, 105 federal agencies protested against such a measure. But these were met by assurances that government agencies would not be subjected to unusual or unnecessary demands for information. The new law has been so written.

The full effects of this kind of freedom of information may not be known for years. It will change the working habits of dozens of federal bureaus and uncounted thousands of bureaucrats. Some of them will

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The full effects of this kind of freedom of information may not be known for years. It will change the working habits of dozens of federal bureaus and uncounted thousands of bureaucrats. Some of them will resist the transition as long as possible.

But the new law is on the way and some day it will, we have no doubt, bring an entirely new form of disclosure to government operations.

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Ann Arbor News
May 3, 1966

From Our Point Of View:

Public Must Stand Guard Over Certain Rights

NO DISCUSSION of freedom of the press is quite complete without some consideration of how a free press gathers its material and how readily available this material is in the first place. As everyone knows, a free press starts with that old sine qua non, the availability of information.

This matter of availability of information is a prickly pear in press-government relations and frequently boils down to disputes over what kind of information is properly public and what kind is not in the national interest to publish. In one sense, "managed news" (the information that the government chooses to release) is as old as the country itself.

The U.S. Constitution pretty much guarantees freedom of speech and freedom of the press, but it leaves to the discretion of the President the release of information relative to his office and other government operations. Starting with George Washington and continuing to the present, the nation's chief executives have at times withheld information that they thought was outside the pale of public (or congressional) consumption.

President Washington politely told Congress to mind its own business after it had requested information of the President relative to the Jay Treaty negotiations. On the ground that disclosure of the instructions given to John Jay when he went to England would have a damaging effect on foreign negotiations then and in the future, Washington turned down the congressional request for information.

Later Presidents have followed Washington's lead and now even bureaucrats and underlings directly responsible to the President have the right to withhold information. The allegation that the government has been less than candid in its release of information and that it sometimes releases only that news which is "favorable" has led to cries of "managed news" and the "calculated leak" during both the Kennedy and Johnson administrations.

* * *

THERE is currently in the House, a Senate-passed freedom of information bill which, in broad terms, would permit any American citizen to gain access to government papers. The bill does not include free access to matters involving security or defense, trade secrets or other types of classified information, but it does require government agencies to make records "promptly available to any person."

The bill has run into a good deal of opposition and neither the Justice Department nor the White House is particularly eager to see the bill become law. Precedent and Supreme Court rulings are on the side of the anti-bill forces; supporters of the bill talk about the need for wider coverage of government and the need for government to give a more complete account of itself.

The bill doesn't deny the President the right to withhold some information, but its clear intent is to spur federal agencies to make public what they otherwise might withhold for any number of reasons. Except for the bill's stated exemptions, other information is deemed to be in the public interest and therefore available on demand.

One of the bill's sponsors, Rep. John E. Moss (D-Calif.), noted a decade ago that the federal government was withholding information unnecessarily, "not dramatic news — but little bits here and there." To Rep. Moss and others, a lot of little bits add up to a big whole.

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'Higher Priority'?

Taxpayers who must provide their own parking are not impressed by the General Services Administration's decision that it is more important to obtain a parking lot for federal employes than it is to provide a site for Mt. Hood Community College.

The 100-acre site at NE 148th Avenue and Halsey Street was used formerly for a radio monitor station, which was discontinued. The Army then claimed it for a Nike missile site, but residents of the area naturally protested against having a military establishment in the midst of their homes. The Army withdrew its claim, the property was declared surplus and Congresswoman Edith Green was assured that it would be available for the new community college, with Lutheran Concordia College being permitted to buy 24 acres at 10 per cent of its value.

Now that plans have progressed to the point where Mt. Hood College is ready to use the site this fall, with portable buildings at first, the GSA has reneged on the promise made by the Department of Health, Education and Welfare. It wouldn't tell at first which federal agency had placed a new "higher priority" claim on the property. It finally turned out that GSA itself was the claimant. It wants to swap the 100 acres for property near the Interior Building to provide parking for federal workers. Eventually the Portland land might be used for additional buildings.

Mrs. Green and Gov. Mark Hatfield understandably are upset about the welshing in Washington and will do their best to restore the Halsey Street site to college use. Meanwhile Mt. Hood College plans to use the County Fair Grounds as a temporary site.

One might argue that if the federal government needs more property in Portland and can obtain it by trading so-called surplus land, this is good business. But the taxpayers who support the federal government are also taxpayers on the local level. The federal government's saving creates a financial burden for the community college district, which may have to buy another site at substantial expense.

The GSA's reneging points up the mess that frequently develops from having Uncle Sam's hand in nearly every activity. No one can be assured that a promise made by one department or bureau will not be broken by another. Someone at the highest level should tell GSA to let federal employes find their own parking lots, as private employes must, and let Mt. Hood College get on with its plans for building a much-needed education institution.

[illegible]edy. That was proved when the draft [w]as initiated on the eve of World War [I]I. Resort to a lottery would be a re[b]uke to the good judgment of the na[ti]on's draft boards, whose record [m]erits the highest public confidence.

Yale University President Kingman [B]rewster Jr. is asking a lot in pro[po]sing a "design of a national manpower policy which would rationally relate individual privilege and national duty," but something of the sort should be the goal. Too many young men apparently have adopted, under Selective Service as it now works, what Dr. Brewster calls "a cops and robbers [view] of national obligation."

People's Records

A key federal issue that has taken decades to come to a head will probably be resolved in Congress this month. The House of Representatives is expected to vote, perhaps unanimously, for a "freedom of information" bill approved by unanimous voice vote in the Senate last year. The act would give the American public a golden key to the public business.

Every administration — Democratic and Republican — in the past two decades has successfully frustrated attempts to put comprehensive legislation on the books supporting public right of access to public records of the federal government. The Johnson Administration has no love for the bill, but prospects suggest that public concern over government secrecy has overwhelmed any Administration reservations.

One of the bill's House sponsors, Rep. Donald Rumsfeld, R-Ill., had this to say about the shift in the bill's fortunes: "The unanimous action after years of delay results from the growing size and complexity of the federal government, from its increased role in our lives, and from the increasing awareness by Americans of the threat involved in government secrecy on vital records affecting their fate."

The bill pins down public right of access to federal records, with specific exceptions such as papers dealing with military plans and national security. If a citizen is refused a record, he may bring suit in federal court, with burden of proof resting on the government.

Now it is time to turn attention to local records, especially those of law enforcement. Federal and state court decisions have been interpreted in a variety of ways to lengthen a cloak of secrecy over such records. In this area, too, there should be an "increasing awareness by Americans of the threat involved in government secrecy on vital records affecting their fate."

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BERNE S. JACOBSEN

6/16/66 Post-Intelligencer Seattle

Your Right To Know At Stake in Congress

NEXT MONDAY a bill will be brought to the floor of the House of Representatives which is of vital interest to every citizen of this nation.

It is Senate Bill 1160, the freedom of information bill, which already has passed the Senate. Representative John E. Moss, D-Calif., has been fighting for this measure for 13 years, with the active support of the American Society of Newspaper Editors.

The bill is really a series of amendments to a people's right to know law which was passed by Congress in 1946. At the time the law was passed it was hailed as a great stride forward in protecting the rights of the public to know what their employees in government were up to.

However, the law was open to too many interpretations. It was intended to open records to the public. But in interpreting its passages, the executive-branch agencies of the federal government have used the law as their chief statutory authority for keeping records closed.

THE NEW BILL would require federal agencies to make available information about the rules they operate under, the people who run them and their acts, decisions and policies that affect the public.

It would require that public records be made available to any person, not simply to those chosen by the government as "directly concerned." It would exempt nine specific catagories of sensitive information from release, instead of encouraging government officials to withhold information "for good cause found." It provides for court review of dubious decisions to withhold information.

Of course we in the newspaper business, along with radio, television, magazines and all media whose primary function and reason for being is to keep the public informed, are most vitally concerned in the success of this bill.

But it really is everyone's concern. We merely provide the pipelines along which flow the information needed by the people of a democracy to make the decisions which eventually are theirs to make.

Unquestionably passage of this bill will make it less difficult for us to cover the machinations of big government.

Members of the news media have long protested the goverment's fondness for secrecy. But despite this barrier — the government's withholding of information, hard working reporters still managed to get the news. Frequently, however, it would have been better for all if the barrier had not been there and the public had known sooner than it did of impending government actions with vital effect on the lives of many.

WE HAVE NO illusions that the Moss bill will be a cure-all for secrecy. No law is ever going to automatically present the American people with an open window to workings of government, nor to the many rooms in which the dirty linens are washed.

Reporters will still have to dig for facts and editors will still have to fight for the principle that the public has a right to know what is going on. Government officials who like to work in secrecy — and avoid criticism — will continue to label the press inaccurate and irresponsible.

The battle will go on, now and forever. The Moss bill will give the fighters for the public's right to know a heavy piece of artillery in that battle.

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The Wichita Eagle

Marcellus M. Murdock
Chairman of the Board and President

Britt Brown
Vice President and Secretary

John H. Colburn
Editor and Publisher

Founded in 1872 by Marshall M. Murdock

Page 4A EDITORIAL OPINION Monday, June 13, 1966

Freedom of Information Bill Deserves Swift Passage

The word from Washington is that the controversial freedom of information bill probably will come up in the House under suspension of rules on June 20, and that its passage and signature by the President are likely.

This is good news to the press, which has been fighting for such a law for at least 10 years. But it is not only newspapers and television and radio that will benefit by the law. Every citizen can rely upon being more accurately and fully informed if it passes. And those persons doing business with the government will find it far simpler to get the information vital to their decision making — government leasing, licensing, financing, regulatory procedures and the like.

For years it has been increasingly the practice of the federal bureaucracy to deny access to information that should be public. Often the purpose was no more sinister than the desire to avoid criticism, but its effect was to deprive the public and the press, which is the agent of the public, of records which are and ought to be their property to examine.

Such withholding of information is one of the primary reasons for the grow-

The refusal of the Post Office Department to reveal names of the hundreds of part-time employees hired during the summer of 1965 is a case in point. There is no excuse for this. No security problem was involved.

Equally celebrated is the Defense Department directives, still in force, requiring all military and civilian personnel to report all contacts with the press before the close of business each day.

Example after example of government secrecy or misinformation could be cited. But the public generally is aware of the instances. That's why people mistrust their government.

The freedom of information bill would go far to correct the situation while still guaranteeing the inviolability of records which it is in the national interest to keep secret. It exempts from public view national security matters, internal personnel rules and files, confidential financial data from companies or individuals, and investigatory files compiled for law enforcement purposes.

But the bill does provide the machinery for action through the courts against any agency refusing to release

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Such withholding of information is one of the primary reasons for the growing American suspicion that its government doesn't tell the truth. The Opinion Research Corporation disclosed recently that its polls show 67 per cent of the public believes the government only sometimes tells the truth; 13 per cent believe it almost never gives the truth about Viet Nam, and only 15 per cent [illegible] truthful.

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But the bill does provide the machinery for action through the courts against any agency refusing to release information not specifically exempted by the law.

It's high time this bill became law. It should have been enacted years ago. Everyone who is interested in good government and his [illegible]

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THE DALLAS TIMES HERALD
DALLAS, TEXAS, THURSDAY EVENING, JUNE 16, 1966 *****B—17

Gov. Complex

Editorials

We Have a Right to Know

POTENTIALLY ONE of the most important bills to the citizenry of this nation under consideration by this Congress—or for that matter by any other Congress—is due to reach the floor of the House Monday.

The bill would create a freedom-of-information law, which would make available to public scrutiny most of the records of the federal government. Thus it would enable news media, the eyes and ears of the people, to keep the public informed at all times on what their federal employes are doing.

Rep. Donald Rumsfeld, one of the supporters of the bill in the House, described it as one of the most important measures to be considered by Congress in 20 years.

Calling it a history-making step closer to the goal of a more fully informed citizenry, Rep. Rumsfeld declared that the proposed law would attack "a particular communications problem: government becoming so complex that it is difficult for the public to stay informed. When government secrecy enters this picture, staying informed becomes impossible."

The bill has already passed the Senate and, in identical form, has now reached the House. Speaker John W. McCormack has promised that the House will take it up under a suspension of rules provision barring amendments.

Except for certain "sensitive" information—such as that involving national security and investigative files—federal agencies under the proposed law would be required to "make their records available to any person" upon request.

If the bill is passed it will reverse an ever-growing trend toward secrecy in government. This tendency of government officials—and it is not restricted to the federal government by any means—to feel that they alone are privileged to determine what information should be doled out to the public has always plagued us. But the bigger the government grows, the greater this tendency becomes.

Thus the time has come when it is imperative that Congress define by law what information on government activities can, by practical necessity for the common good, be withheld from us and what must be divulged. Under our philosophy of government, which in essence is our inalienable right to know what our government is doing for us or to us, only a minimum of logical secrecy should and can be tolerated.

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Chicago Daily News

A 9-Year Saga

House Shoo-In: 'Freedom of Information' Bill

BY CHARLES NICODEMUS
Of Our Washington Bureau

WASHINGTON — A bill once controversial enough to take 10 years of groundwork will, in 10 days, rocket through the House, probably by the same unanimous vote with which it cleared the Senate.

The measure is the "Freedom-of-Information" bill that gives the public its first formal guarantee of access to all but the most sensitive records of that public official who dominates American life: Uncle Sam.

How can a proposal that was bogged down in controversy and executive opposition for nine long years suddenly whoosh through Congress, to win within nine months what in all likelihood will be unanimous endorsement of both chambers?

JOHN E. MOSS

REP. JOHN Moss (D-Calif.), the author, godfather, and vocal champion of the freedom-of-information concept over the last decade, explains it one way:

"You had to develop a public dialog," he suggests.

"You had to educate the American people and the Congress itself on the need for such legislation."

Biggest boost for the bill came in the 1964 Presidential election campaign, he said.

Republicans made freedom of information, and alleged suppression and management of the news, a major campaign issue.

THE BENEFIT was two-fold, Moss points out:

• It dramatized the issue for the public.

"suspension of the rules," the House Rules Committee is bypassed and the measure goes directly from committee to the floor, with time for debate limited to 40 minutes.

To compensate for this extraordinary dispatch, a two-thirds margin is needed for passage instead of the usual simple majority.

Moss said he anticipated no difficulty in getting the extraordinary margin. "In fact, I wouldn't be surprised if it were unanimous," he said.

THE BILL'S key provisions declare that:

• The public is entitled to scrutinize all federal records, except those in certain exempt categories.

They include papers involving national security and foreign policy; files of federal law-enforcement agencies; medical and personnel records, and trade secrets that industry

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THE BENEFIT was two-fold, Moss points out:

- It dramatized the issue for the public.
- It put the White House in a position so that — even though administrations of both parties have long opposed such legislation — executive branch opposition now had to be muted and legalistic.

Rep. Donald Rumsfeld (R-Ill.), a key member of Moss' government operations subcommittee that voted the bill to the floor, has a somewhat different explanation of the measure's unusual legislative history.

"The unanimous action after years of delay results from the growing size and complexity of the federal government, from its increased role in our lives, and from the increasing awareness by Americans of the threat involved in government secrecy on vital records effecting their fate."

Rumsfeld — in what Democrats doubtless would contend was a politically motivated diagnosis — said that the policies of the Johnson administration in particular have spotlighted for the people the need for such legislation.

"With the continuing tendency toward managed news and suppression of public information that the people are entitled to have, the issues have at last been brought home forcefully to the public," he declared.

WHATEVER the reason, the measure will be brought before the House June 20 under a special procedure used only for minor bills or legisla-

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- The public is entitled to scrutinize all federal records, except those in certain exempt categories.

They include papers involving national security and foreign policy; files of federal law-enforcement agencies; medical and personnel records, and trade secrets that industry has been required to furnish the government.

- If a citizen is refused a record, he may sue in federal court under judicial review procedures, with the burden of proof that the refusal was proper resting on the government.

During drafting of the measure, the Department of Justice attempted to have the bill specifically affirm the President's claimed right of "executive privilege" to withhold any information he deemed unfit for public release.

Moss' refusal to include such language led the administration to continue its opposition to the bill, on the ground that it would be an unconstitutional invasion by Congress of the executive branch's right to run its own affairs.

DESPITE that position, Moss says he has been guaranteed that President Johnson will not veto the measure.

As an added safeguard against improper disclosure not in the national interest, the legislation will not go into effect until one year after it is signed into law.

That will give government agencies time to review the categories of exempt data; prepare mechanics for making records available to the public, and come back to Congress if further law is needed to make the long-delayed freedom-of-information concept work.

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THE ENQUIRER

FRANCIS L. DALE
President and Publisher

BRADY BLACK
Editor and Vice President

CHARLES W. STAAB
Executive Vice President
and Business Manager

THE ENQUIRER'S DECLARATION OF FAITH, APRIL 10, 1841

"If we fail, that failure shall not arise from a want of strict adherence to principle or attention and fidelity to the trust we assume."

Page 2-C Sunday, May 29, 1966

The Right To Know

IT IS EASY FOR many Americans to fall into the habit of imagining that the constitutional guarantees of a free press are a matter of interest and concern only to America's newspaper publishers. And perhaps there are still a few publishers who entertain the same notion.

In reality, however, the right to a free press is a right that belongs to the public. It is the man in the street's right to know—in particular, his right to know what his servants in government are doing. Unhappily, however, it is a right whose preservation requires a battle that is never fully won. For at every level of government, there are officials who think that their particular province should be shielded from public scrutiny.

Another important stride in the right direction came the other day when the House Government Operations Committee unanimously approved a freedom of information bill (Senate Bill 1160). The bill is an attempt to insure freedom of information without jeopardizing the individual's right of privacy. It exempts nine specific categories of information—including national security, the investigative files of law enforcement agencies and several others. But it clearly reaffirms the citizen's right to examine the records of his government and the right of the press to do the same in his behalf.

Senate Bill 1160 is the culmination of a 10-year effort to clarify the provisions of the Administrative Procedure Act, which is so broad that it permits most Federal agencies to define their own rules on the release of information to the press and the public.

The House should press ahead, accept the recommendation of its committee and translate Senate Bill 1160 into law.

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People's Right to Know at Stake

LOS ANGELES TIMES June 17, 1966

A freedom-of-information bill similar to one already passed by the Senate will reach the floor of the House of Representatives on Monday.

Although its passage is deemed a certainty, its fate at the hands of President Johnson remains in doubt.

As Vice President-elect, Mr. Johnson declared in 1960 that "the executive branch must see to it that there is no smokescreen of secrecy." Nonetheless, 27 federal departments and agencies have been arrayed against the pending measure as it progressed through committee.

In essence the proposed legislation says that, except in areas of national security, all information must be made available promptly, that agencies withholding information must justify their actions and that court action may be instituted to force disclosure.

The measure actually represents a series of amendments to a bill enacted by Congress in 1946 to bolster the people's right to know. Since that time, however, federal agencies have made so many interpretations of the law that it is now recognized as the principal statutory excuse for keeping records from the public.

Government opponents of the new measure, in addition to other arguments, have attempted to cast doubt on its constitutionality. But that contention would seem negated by the fact that the initial legislation passed 20 years ago has not been held invalid.

Rep. John Moss (D-Sacramento), principal author of the new bill and long-time chairman of the House subcommittee on information freedom, has rightly pointed out that if Congress could pass a weak public information law in 1946 it should be able to strengthen it now.

The need for such strengthening is evident.

A survey showed that between 1946 and 1958 the increased amount of documents deemed "classified" was sufficient to fill a 10-story, 300-foot-square office building. At least two dozen new terms came into use during that period to cover documents bureaucrats wanted to hide from public view.

Public access was denied to such things as Pentagon telephone directories and the dissenting views of minorities on federal regulatory bodies.

Freedom of speech and freedom of press are guaranteed by the Constitution. But, as was observed more than a decade ago when Moss began his crusade, those are pretty empty guarantees unless accompanied by freedom of information.

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Fight Against Secrecy Nears End

House Action Expected Soon on Moss 'Right to Know' Bill

Editor's note—One of the bases of U.S. democracy is the right of the people to know what its government is doing. But that hasn't always been the case. Over the years government agencies have become more and more secretive and the barriers to free access of information have risen even higher. Now the fight to tear down the barriers is coming to a peak.

By JOHN W. BECKLER AND BEM PRICE

WASHINGTON (AP)—A battle most Americans thought was won when the United States was founded is just now moving into its final stage in Congress.

It involves the right of Americans to know what their government is up to. It's a battle against secrecy, locked files and papers stamped "not for public inspection."

It's been a quiet fight, mainly because it has been led by a quiet, careful congressman, Rep. John E. Moss, D-Calif., who has been waging it for 13 of the 14 years he has been in the House.

Now, the House is about to act on the product of the years of study, hearings, investigations and reports—a bill that in some quarters is regarded as a sort of new Magna Charta. It's called the Freedom of Information Bill, or the right to know.

It would require federal agencies to make available information about the rules they operate under, the people who run them and their acts and decisions and policies that affect the public. Large areas of government activity that must of necessity be kept secret would remain secret.

Approval Believed Certain

House approval is believed certain, and since the Senate already has passed an identical bill, it should wind up on President Johnson's desk this month.

How it will be received at the White House is not clear. In 1960, as vice president-elect, Johnson told a convention of newspaper editors "The executive branch must see that there is no smoke screen of secrecy." But the 27 federal departments and agencies that presented their views on the bill to Moss' government information subcommittee all opposed its passage.

Norbrt A. Schlei, assistant attorney general, who presented the main government case against the bill, said the problem of releasing information to the public was "just too complicated, too ever-changing" to be dealt with in a single piece of legislation.

"If you have enough rules," he said, "you end up with less information getting out because of the complexity of the rule system you establish . . .

"I do not think you can take the whole problem, federal governmentwide, and wrap it up in one package. That is the basic difficulty; that is why the federal agencies are ranged against this proposal."

Would Hinder Executive

Another government witness, Fred Burton Smith, acting general council of the Treasury Department, said if the bill were enacted "the executive branch will be unable to execute effectively many of the laws designed to protect the public and will be unable to prevent invasions of privacy and individuals whose records have become government records."

Smith said the exemptions contained in the bill were in-

AP Wirephoto

Rep. John E. Moss, D-Calif.
Fights For 13 Years Against Secrecy In Government

investigate complaints that government agencies were blocking the flow of information to the press and public.

Although only a junior member of the committee, Moss already had impressed House leaders with his diligence and seriousness of purpose and he was made chairman of the new subcommittee. His characteristics proved valuable in the venture he undertook.

Right Taken for Granted

The right of a free people to know how their elected representatives are conducting the public business has been taken for granted by most Americans. But the constitution contains no requirement that the government keep the people informed.

The seeds of the secrecy controversy were sown during the first session of Congress when it gave the executive branch, in a "Housekeeping" Act, authority to prescribe rules for the custody, use and preservation of its records. They flourished in the climate created by the separation of the executive and legislative functions of government.

Since George Washington, presidents have relied on a vague concept called "executive privilege" to withhold from Congress information they feel should be kept secret in the national interest. There are constitutional problems involved in any move by Congress to deal with that issue, and S1160

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Smith said the exemptions contained in the bill were inadequate and its court provisions inappropriate. In addition, he said, persons without a legitimate interest in a matter would have access to records and the whole package was of doubtful constitutionality.

Far from deterring him, such testimony has only strengthened Moss' feeling that Congress had to do the job of making more information available to the public because the executive branch obviously wouldn't.

The bill he is bringing to the House floor, June 20, is actually a series of amendments to a law Congress passed in 1946 in the belief it was requiring greater disclosure of government information to the public. And that, for Moss, takes care of the constitutional question.

Open to Interpretations

"If we could pass a weak public information law," he asks, "why can't we strengthen it?"

The 1946 law is open to many interpretations. And the interpretations made by the executive agencies were such that the law, which was intended to open records to the public, is now the chief statutory authority cited by the agencies for keeping them closed.

For the law permits withholding of records if secrecy "is required in the public interest," or if the records relate "solely to the internal management of an agency." If a record doesn't fit those categories it can be kept secret "for good cause found." And even if no good cause is found, the information can only be given to "persons properly and directly concerned."

From 1946, when that law was enacted, to 1958 the amount of file space occupied by classified documents increased by 1 million cubic feet, and 24 new terms were added to "top secret," "secret," and "confidential," to hide documents from public view.

They ranged from simple "nonpublic," to "while this document is unclassified, it is for use only in industry and not for public release."

Former Uses of Law

The law has been used as authority for refusing to disclose cost estimates submitted by unsuccessful bidders on nonsecret contracts, for withholding names and salaries of federal employes and keeping secret dissenting views of regulatory board members.

Document Index Required

It was used by the Navy to stamp its Pentagon telephone directories as not for public use on the ground they related to the internal management of the Navy.

S1160, as the bill now before the House is designated, lists specifically the kind of information that can be withheld and says the rest must be made available promptly to "any" person.

The areas protected against public disclosure include national defense and foreign policy secrets, investigatory files of law enforcement agencies, trade secrets and information gathered in labor-management mediation efforts, reports of financial institutions, personnel and medical files and papers that are solely for the internal use of an agency.

In the view of many veterans of the fight for the right to know, its most important provision would require an agency to prove in court that it has authority to withhold a document that has been requested. Under the present law the situation is reversed and the person who wants the document has to prove that it is being withheld improperly.

The bill would require that each agency maintain an index of all documents that become available for public inspection after the law is enacted. To discourage frivolous requests, fees could be charged for record searches.

Moss bumped his head on the government secrecy shield during his first term in Congress when the Civil Service

concept called "executive privilege" to withhold from Congress information they feel should be kept secret in the national interest. There are constitutional problems involved in any move by Congress to deal with that issue, and S1160 seeks to avoid it entirely.

Moss, acting on the many complaints he receivees, has clashed repeatedly with government officials far down the bureaucratic lines who have claimed "executive privilege" in refusing to divulge information, and in 1962 he succeeded in getting a letter from President John F. Kennedy stating that only the Preseident would invoke it in the future. President Johnson gave Moss a similar pledge last year.

Battle Borne by Newsmen

Until the Moss subcommittee entered the field, the battle against government secrecy had been borne mainly by newspapermen. In 1953, the American Society of Newspaper Editors published the first comprehensive study of the growing restrictions on public access to government records, a book by Harold L. Cross entitled "The People's Right To Know."

The book provided the basis for the legislative remedy the subcommittee proceeded to seek, and Cross summed up the idea that has driven Moss ever since when he said, "The right to speak and the right to print, without the right to know, are pretty empty."

Now, 53, Moss is a short, compactly built man whose hard work and party loyalty have brought him the reward of the leadership position of assistant majority whip, fourth in the hierarchy of important House posts. He has a powerful, resonant voice that makes him one of the best orators in the House when he chooses to speak, which is not often.

In public, his grave manner and serious way of speaking sometime makes him appear stuffy, but Moss is known to his associates as a warm, friendly man with an admirable sense of duty. He takes little part in Washington's social life and spends most of his free time with his wife and two teenage daughters and in his basement workshop making furniture.

Unaware of Situation

When he took over the subcommittee Moss had little knowledge of any information problem. He had sold cars and real estate in Sacramento before entering politics, and four years as a state legislator had left him unaware of what was happening in Washington.

Moss learned quickly, however, when the subcommittee opened hearings in 1955, calling on newsmen, lawyers, professors and information specialists in government. He also sent questionaires to 63 federal departments and agencies to find out their information policies. What emerged from it all, he has said, was a picture of a rising wall of secrecy between the public and the government caused more by legislative inaction and public inattention than by any deliberate government policy.

World War II, with its emphasis on security, gave a tremendous boost to the trend toward secrecy and so did the activities of the late Sen. Joseph McCarthy, R-Wis., as intimidated officials pursued anonymity by keeping everything they could from public view.

In 1958, Moss and the late Sen. Tom Hennings, D-Mo., succeeded in amending the old "Housekeeping" law to make clear it did not grant any right for agencies to withhold their records.

Opposition of the executive branch blocked any further congressional action. Moss, hoping to win administration support, did not push his bill until he was convinced this year it could not be obtained.

Considers It a Milestone

Moss feels S1160 marks a legislative milestone in the United States.

"For the first time in the nation's history," he said recently, "the people's right to know the facts of government will be guaranteed."

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Moss bumped his head on the government secrecy shield during his first term in Congress when the Civil Service Commission refused to open some records to him.

"I decided right then I had better find out about the ground rules," he said in a recent interview. "While I had no background of law, I had served in the California Legislature and such a thing was unheard of."

(California is one of 37 states that has open records laws).

Moss was given an opportunity to learn the ground rules in his second term in Congress when a special subcommittee of the Government Operations Committee was created to ... newspapermen. In 1953, the American Society of Newspaper Editors published the first comprehensive study of the growing restrictions on public access to government records, a book by Harold L. Cross entitled "The People's Right To Know."

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Vincent Wasilewski, president of the National Association of Broadcasters, in his statement to the subcommittee, may have come closest to the true value of the proposed law when he said:

"In some way there must be infused into all branches of government a dedication to disclosure of the truth to the American people. Every officer of government should know that it is his duty to conceal only that which the law requires be concealed. All else belong to the people. The doctrine of freedom of information ought to be confirmed in law."

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