

those records created by the Commission in its investigation and report that should be security classified under existing Executive Order. The Commission's authority to classify its records and its decision to delegate that responsibility to me existed pursuant to Executive Order 10501."

6. Read together with the correspondence attached to it, Mr. Rankin's affidavit implies that before Ward & Paul was chosen as the Commission's reporter, the Commission instructed Rankin to direct Ward & Paul to classify all work done by it for the Commission.

7. I have carefully examined the files of the Warren Commission relating to the Commission's Executive Sessions. I know of no document in the Commission's files directing Mr. Rankin to classify the Executive Session transcripts pursuant to Executive Order 10501. The defendant has produced no such document. Under date of July 20, 1971, I asked Dr. James B. Rhoads, the Archivist of the United States, for a copy of any Executive Order which he regarded as relevant to the withholding of the Warren Commission's Executive Session transcripts. Dr. Rhoads never provided me with a copy of any such Executive Order.

8. Mr. Rankin states that he began work as General Counsel for the Commission on December 8, 1963. No transcript of an Executive Session held before that date was ever classified. In fact, those Executive Session transcripts made by the Department of Justice both before and after that date were never classified, neither at the time by the Department of Justice, nor subsequently by the National Archives.

9. The first Executive Session reported by Ward & Paul was that of January 21, 1964. No transcript of an Executive Session held between December 8, 1963 and January 21, 1964, was ever class-

ified. The first transcript of an Executive Session to be classified was that of January 21, 1964, the date on which Ward & Paul became the Commission's reporter.

10. I have read all of the Executive Session transcripts not still withheld. At no point is there a directive from the Commission to Mr. Rankin ordering him to classify the Executive Session transcripts pursuant to Executive Order 10501. Nor was there even any discussion of classifying Executive Session transcripts pursuant to Executive Order 10501.

11. The only Executive Session at which the Commission could have ordered Mr. Rankin to classify its Executive Session transcripts is that of December 16, 1963. That transcript is unclassified and a casual reading of its beginning pages discloses that the Commission was not concerned with and did not address any of the concerns of Executive Order 10501. [See Memorandum Exhibit B]

12. In addition to the actual physical safety and integrity of its files, the Commission's specific and articulated concern throughout its existence was over news leaks.

13. Neither Executive Order 11130, which created the Commission, nor Senate Joint Resolution 137, which gave it the power to subpoena witnesses and compel the production of evidence, authorized the Commission to classify documents pursuant to Executive Order 10501. [Executive Order 11130 is reproduced as Opposition Exhibit J. S.J. Res. 137 is reprinted in the Warren Report, pp. 473-474]

14. Although the testimony of all witnesses transcribed by Ward & Paul was routinely classified, the Commission's own procedures for the taking of testimony did not provide for this. The Commission's procedures, adopted at its Executive Session of March 16, 1964, were themselves classified Top Secret by Ward & Paul. Although the Commission's procedures were reprinted in the Warren Report, the National Archives did not declassify them until

more than three years later. [The Commission's resolution adopting these procedures is attached hereto as Memorandum Exhibit C]

15. Notwithstanding the fact that Ward & Paul classified all witness testimony, Commission Rule "I-C" permitted witnesses to purchase transcripts of their testimony. [See Memorandum Exhibit C] When discussing this provision at its January 21, 1964, Executive Session, Mr. Rankin pointed out that copies of witness transcripts might be sold to the press. Representative Hale Boggs stated: "A witness has the right to look at his own testimony. If the press wants to buy it, they can buy it." [See Memorandum Exhibit D] Mr. Rankin personally authorized the sale of classified witness transcripts. Attached hereto as Memorandum Exhibit E are Ward & Paul invoices reflecting the sale of classified transcripts to Mrs. Marina Oswald and news reporter Ike Pappas.

16. After the Warren Commission went out of existence with the filing of its Report on September 27, 1964, the National Archives attempted to throw a 75-year cloak of secrecy over the Commission's records. An eloquent letter of protest from the Mayor of Cedar Rapids, Iowa to the President [See Memorandum Exhibit F] served as the instrument by which the Executive Branch initiated action intended to override the Archives' suppression of Warren Commission documents. The White House directed the Attorney General to make a study with a view towards changing the policy announced by the General Services Administration. [See White House "Memorandum For Acting Attorney General Katzenbach" attached hereto as Memorandum Exhibit G]

17. As directed by the White House, the Department of Justice solicited the views of Chief Justice Earl Warren on the public availability of the Commission's records. The Attorney Gener-

al's Memorandum of April 13, 1965, states: "The Chief Justice has informed me in a letter dated April 5, 1965, that the President's Commission has concluded, after full consideration, that the public availability of the Commission's records was a matter to be resolved by the Attorney General and the originating agencies in accordance with established law and policies of the Government. According to the Chief Justice, the Commission assumed that these determinations would be made in light of 'the overriding consideration of the fullest possible disclosure.' Moreover, the Commission did not desire to restrict access to any of its working papers except those classified by other agencies." [Emphasis added. See the Attorney General's Memorandum of April 13, 1965, attached hereto as Memorandum Exhibit H]

18. The Attorney General's April 13 Memorandum outlined certain procedures to be followed in making Warren Commission records publicly available. The White House approved these guidelines and procedures on April 19, 1965, and directed the Department of Justice and the National Archives to implement them. [See Memorandum Exhibit I] In 1968 the National Archives wrote a student of the Warren Commission that: "We are not aware of any documents from the office of President Johnson on which the withholding of Warren Commission documents from research is based, except the memorandum of Mr. McGeorge Bundy of April 19, 1965, approving the procedures proposed by the Attorney General for making records of the Commission available for research."

19. In the Memorandum and Order entered by the Court in this cause on April 4, 1974, the Court ordered the defendant to file with the Court "proof competent under Rule 56 of the Federal Rules of Civil Procedure that the transcript at issue has been properly

classified under Executive Order 11652." No such proof has been submitted by the defendant.

20. In response to interrogatory 2, which asked if there was any Executive Order which specifically requires the transcript of the January 27 Executive Session to be kept secret in the interest of the national defense or foreign policy, Dr. Rhoads stated that the transcript "is presently classified under the provisions of Executive Order 11652." Later, when pressed for specifics on the transcript's classification under Executive Order 11652, Dr. Rhoads stated that: "The transcript was not subject to declassification or reclassification because of the issuance of Executive Order 11652. Its classification under Executive Order 10501 automatically carried over upon the effective date of Executive Order 11652, i.e., June 1, 1972." [Answer to interrogatory 27]

21. There is no evidence in the record showing that the January 27 transcript was in fact classified pursuant to Executive Order 10501. In addition, the answer to interrogatory 27 gives the impression that no review of the security classification of the January 27 transcript has been undertaken since it was classified by Ward & Paul on the day it was transcribed. This is not true. On May 11, 1972, Dr. Rhoads testified before the Foreign Operations and Government Information Subcommittee of the House of Representatives. In response to questions about the Warren Commission's records, Dr. Rhoads submitted a prepared statement. Referring to the guidelines drawn up by the Department of Justice and approved by the White House, Dr. Rhoads stated: "The reviews of the records provided for in the guidelines were held in 1965, 1967, and 1970. A large number of the documents withheld from research as a result of the 1965 review were made available by the 1970 review. The five year review of the records withheld from research as a

result of the 1967 review is now being conducted. This review includes a survey of the security classified documents among the Commission's records to determine whether they should be declassified or downgraded under the provisions of Executive Order 11652 . . ." [Hearings, House Foreign Operations and Government Information Subcommittee, 92nd Cong., 2nd Sess., Part 7, page 2610]

22. In his affidavit Mr. Rankin states: "As agreed to by the Commission, I ordered that the transcripts of certain of the Commission executive sessions, including that of January 27, 1964, be classified 'Top Secret,' and I communicated the fact of said classification to Ward & Paul, transcribers of the executive sessions (see attached copies of correspondence between Ward & Paul and me)." As I have pointed out above, there is no record of any such agreement by the Commission and the defendant has produced none. All evidence is directly to the contrary. In addition, rather than "certain" of the Executive Session transcripts being classified, the fact is that all Executive Session transcripts made by Ward & Paul were classified Top Secret. This is shown by the Ward & Paul worksheets. [One such worksheet is Opposition Exhibit C] These worksheets also show that all Executive Session transcripts were classified Top Secret by Ward & Paul as a matter of routine and utterly without regard to content.

23. In answering interrogatories 23, 24, and 25, which ask when the January 27 transcript was classified, and by whom, Dr. Rhoads cites only a May 1, 1964, letter from Mr. Rankin to Ward & Paul. Although this letter postdates the date on which the January 27 transcript was actually classified by more than three months, it is attached to Mr. Rankin's letter as evidence that he communicated the fact of classification to Ward & Paul. Mr. Rankin's affidavit and his May 1, 1964, letter to Ward & Paul leave the impression

that in that letter he reissued a previous order to Ward & Paul to classify all Executive Session transcripts for reasons relating to national security. This impression is totally misleading. Mr. Rankin's letter relates to the Executive Session of the previous day, April 30, 1964, which had discussed the printing of the Commission's Report. The printing of the testimony of witnesses who had appeared before the Commission did not present a threat to the national defense but, for internal bureaucratic reasons, it was necessary to downgrade the witness testimony. As Mr. Rankin explained in making the motion to downgrade: "I think at this time we ought to take action on declassifying our transcript so the printers can handle it, from Top Secret to Confidential." [See Memorandum Exhibit J]

24. In answer to interrogatory 36, Dr. Rhoads has stated that the January 27 transcript contains eighty-six pages, each of which is classified Top Secret. Attached hereto as Memorandum Exhibit K is a copy of the Agenda for the January 27 Executive Session. Having been prepared by the Commission staff rather than by Ward & Paul, it is unclassified. As I said in my October 13, 1968, letter to Dr. Rhoads, this agenda "makes it obvious that the entire transcript cannot properly be withheld." [See Memorandum Exhibit L] Dr. Rhoads never responded to this.

25. Several years ago I discovered that a transcript of an Executive Session had been faked. Mr. J. Lee Rankin personally distributed the faked Executive Session transcript to the members of the Warren Commission.

26. The Executive Session in question, held on September 18, 1964, had been forced by three members of the Warren Commission who raised objections to the Warren Report's conclusion that there had


been no conspiracy to assassinate President Kennedy. The three dissenting Warren Commission members thought that a transcript of their objections was being made and would be kept as a historical record. Long after the end of the Commission's work and the publication of its Report, the Commission members were provided with a covering letter and what purported to be a transcript of this meeting. The first page of the faked transcript counterfeits the work of Ward & Paul. The first and succeeding pages of this faked transcript were numbered to make it appear that they were in proper sequence with all preceding Ward & Paul transcripts. However, this transcript is in fact a fake and does not include any verbatim report of the actual Executive Session. It also does not include the objections raised by Senator Russell and the other unsatisfied members of the Warren Commission.

27. After I discovered the faked transcript, I met and corresponded with Senator Richard Russell about it. At first Senator Russell could not believe that the doubts and disagreements he had expressed at the September 18th Executive Session were not recorded. When, on June 5, 1968, I informed Senator Russell of what Dr. Rhoads had written me, that "No verbatim transcript of the executive session of September 18, 1964, is known to be among the records of the Commission," Senator Russell asked me to make a further inquiry. On June 14, 1968, I informed him of the National Archives' added responses: "All that we have for that session is the minutes, a copy of which was furnished you."

28. Senator Russell was shocked to learn that the purported copy of the Executive Session transcript had indeed been faked. Not long before his death Senator Russell began to publicly voice his doubts about the conclusions which the Commission had reached



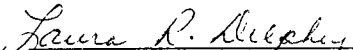
in its Report. Privately Senator Russell told me that he was convinced that there were two areas in which Warren Commission members had been deceived by the Federal agencies responsible for investigating the assassination of President Kennedy. These two areas were: (1) Oswald's background; and, (2) the ballistics evidence. The first of these two areas was the principal subject discussed at the January 27, 1964, Executive Session.

  
\_\_\_\_\_  
HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 25th day of April, 1974, deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1 - 1974.

  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
FREDERICK COUNTY, MARYLAND

### Explanatory Note on Suppression by Stonewalling

It was the stated policy of the LBJ administration, of the Department of Justice under RFK and of the former Commission chairman that, to the degree possible under the laws, all the Commission's records be made available to the public. And the chairman was the chief justice of the United States.

Whatever others may conjecture to have been in their minds, this is what their actions say and mean.

The Archives, which had set up the Commission's files and inherited them when the Commission's life ended, delayed making some files available for several years. Two men who also had other and formerly full-time duties were assigned to the Warren archive, to arrange it and make it available. Less than a corporal's guard.

Regularly in Weisberg's searches, he found documents missing from the Commission's files. Regularly he asked Rhoads to obtain replacements from the agency of origin. And regularly - with no single exception - Rhoads refused. Instead, he told Weisberg to chase around on his own. This, of course, would still leave an incomplete record in the Archives. What follows proves it was an assured futility.

It comes as no surprise then that the former chief justice/chairman's policy statement embodied in a letter is not in the Archives and again Rhoads, whose administration of that archive is supposedly controlled by policy, refused to obtain and keep a copy on file, available to all.

Lesar asked the United States Attorney for a copy and never obtained it. Rhoads refused to supply it. Lesar's first request of the Department of Justice was, supposedly in the confusion we are expected to believe is its way of life, first routed to the FBI, where it had no business going. This had the effect of stalling us in the suit for which we never did obtain a copy of Warren's letter.

By means of this stonewalling it was possible for a suit to be filed and judged without this most basic evidence being before the judge. It goes without saying that, had the Warren letter been congenial to the Department's arguments, it would have produced that letter.

It also goes without saying that the Criminal Division was the last to which Lesar's request should have been routed. As Rhoads says, if there were any question - and there never was - the proper place was the Office of Legal Counsel.

Criminal Division Chief Henry Petersen, who stonewalled the Watergate grand jury through his control of the prosecution and thus limited the number of indictments and inditees, has no genuine concern for the cost to which he claimed reluctance to put us. That division is an old stonewaller, in these suits going back to C.A. 718-70. His Department had departed from norm in the spectro suit by trying to bill Weisberg for the cost of the appeal. (Weisberg refused to pay and it was dropped.) Rhoads apologized for the cost to which he put us in this unnecessary litigation about which he never once told the truth while feigning regret at this waste of our limited resources. Letters like these are cheap tricks, self-serving and false records intended to look good in court. In reality, although Departmental regulations require action on or acknowledgment of requests and appeals within ten days, Weisberg has appeals that remain unanswered for close to a year, again for public, partly published court records.

Weisberg addressed this mysterious disappearance of files, the lack of care, the understaffing, the high percentage of illegible documents and other inadequacies in this archive on the assassination of the martyred President in the Epilogue to WHITEWASH II. Nothing has happened in the ensuing seven years to diminish the anger and passion there expressed. The archive remains incomplete,

as the following correspondence shows, and the Archivist still refuses to restore it.

Were Warren Commission records to be stolen, the Archivist can pinpoint the thief. Those records are kept in a secure area, behind a steel door that locks automatically and is controlled by a combination lock. They are not moved without a record being made. They may be studied in a guarded room only. Those who see them and who must be approved in advance, also have to sign a "blind", unitemized receipt for the files they examine under guard.

Federal agents are an exception. They are not required to submit to these conditions. Were one to conjecture about how JFK assassination records disappear, suspicion of federal agents, the only ones with motive, cannot be avoided.

Citizens who are allowed to examine these records are also allowed to buy xeroxes of them. Ordinary citizens therefore have no motive for theft.

On March 15, 1974, Lesar asked Rhoads for the following documents for use in court:

1. The April 13, 1965 Memorandum for McGeorge Bundy re "Public Availability of Materials Delivered to the National Archives by the President's Commission on the Assassination of President Kennedy."
2. The April 19, 1965 Memorandum for the Attorney General from McGeorge Bundy in regard to the same subject.
3. The McGeorge Bundy memorandum of January 15, 1965 referred to the first paragraph of the Attorney General's April 13, 1965 Memorandum for McGeorge Bundy.
4. The Department of Justice instructions referred to in the concluding paragraph of the Attorney General's April 13, 1965 Memorandum for McGeorge Bundy.
5. The April 5, 1965 letter from Chief Justice Earl Warren referred to in the third paragraph of the Attorney General's April 13, 1965 Memorandum for McGeorge Bundy.

I would also appreciate it if you could send me signed copies of the above documents.

Signed copies, which the Archives should have in any event, are a protection against revisions of drafts or, what did happen, letters being written but not sent while copies of the unsent letters remain in the files.

In his reply, instead of providing signed copies, Rhoads started Lesar on the bureaucratic treadmill. The Office of Legal Counsel could have referred him elsewhere. Like all presidential libraries, the LBJ Library is directly under the Archivist - Rhoads:

Mr. James H. Lesar  
1231 4th Street, S.W.  
Washington, DC 20024 .

Dear Mr. Lesar:

This is in reply to your letter of March 15, 1974.

Enclosed are copies of items 1-4 listed in your letter made from copies in our possession. We do not have a copy of item 5. You may be able to obtain a copy of it by writing to the Office of Legal Counsel of the Department of Justice. That Office may also have the signed copies of items 2 and 3. The signed copy of item 1 may be in the Lyndon B. Johnson Library, Austin, Texas.

Item 4 consists of a copy of a letter to the Department of State by the Attorney General of July 12, 1965, concerning the review of documents furnished to the Warren Commission by that Department. Letters similar to the letter to the Department of State were sent to other departments and agencies by the Attorney General.

Sincerely,

*James B. Rhoads*  
JAMES B. RHOADS  
Archivist of the United States

After receiving this April 1 letter from Rhoads, Lesar wrote Attorney General Saxbe:

I am writing to request that you provide me with a copy of the letter from former Chief Justice Earl Warren to the Attorney General of the United States dated April 3, 1965. This letter is referred to at the bottom of page one of the Attorney General's April 13, 1965, Memorandum re: "Public Availability of Materials Delivered to the National Archives by the President's Commission on the Assassination of President Kennedy."

This request is made under the provisions of the Freedom of Information Act, 5 U.S.C. §552.

It is in response to this that Petersen suddenly developed a compassionate concern for our financial situation. He did not say what is fact, that he was not the proper person to whom the request should have been forwarded under the law or the one to make response. Warren's letter was in no sense within the duties of the Criminal Division. Except, of course, if the Department had wanted to phony-up a semblance of actuality to its fake that what we sought was either an "investigatory file" or "compiled for law enforcement purposes".

ASSISTANT ATTORNEY GENERAL  
CRIMINAL DIVISION

Department of Justice  
Washington 20530

James H. Lesar, Esquire  
Attorney at Law  
1231 Fourth Street, S. W.  
Washington, D. C.

Dear Mr. Lesar:

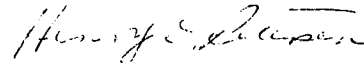
Your letter of May 9, 1974 to the Attorney General requesting a copy of a document pursuant to 5 U.S.C. 552, has been referred to this Division for consideration and reply. You asked for a copy of former Chief Justice Earl Warren's letter of April 3, 1965 to the Attorney General on the release of information from files of the President's Commission on the Assassination of President Kennedy. Our files on the subject of the assassination are very extensive, and the cost of clerical search of the file for the letter could exceed \$25.00 but would probably not exceed \$50.00.

As you did not indicate in advance your willingness to pay fees as high as anticipated, we are withholding action on your request. Upon notice of your agreement to pay applicable fees, computed as provided in 28 C.F.R. 16.9, we will order the necessary search. Although the substance of the document you seek, as reflected in the reference thereto in the Attorney General's memorandum of April 13, 1965 referred to in your request, does not indicate that we should withhold the document, we cannot, without examining the full text thereof, determine the question of exemption in advance. If the time expended in processing your request is substantial, the fees will apply regardless of the determination as to exemption or whether the document is found.

Inasmuch as the document you seek originated with former Chief Justice Warren, you might find it more convenient and expedient to seek a copy thereof from his files. We would not presume to interpose any objection to release of a copy of the document in such fashion.

Please advise us if you are willing to pay the fees involved and wish us to conduct a search for the requested document. For your information should you so advise, we have set a deadline of 30 working days from receipt of such advice for completion of our action on your request.

Sincerely,



HENRY E. PETERSEN  
Assistant Attorney General

Because of his preparations for the evidentiary hearing in the case of James Earl Ray, Lesar was not able to reply to Petersen until August 5. By the time this book went to the printer, after the ten days prescribed in Departmental regulations, there was neither response nor acknowledgment.

In response to your letter of June 14, I request that you conduct a search, to the extent it is needed, for the April 3, 1965, letter which former Chief Justice Earl Warren wrote to the Attorney General concerning the public availability of Warren Commission files.

I will, of course, pay whatever fees are required by law.

However, I call your attention to 28 C.F.R. §16.9(a), which authorizes you, in conformity with 31 U.S.C. §483a, to determine that "such charges or a portion thereof are not in the public interest." I request that in this case you do make that determination.

As you are no doubt aware, serious charges have been made that the Department of Justice is suppressing important information pertaining to the assassination of President Kennedy. Disclosure of the April 3, 1965, letter of former Chief Justice Earl Warren should shed additional light on who is responsible for this policy of suppression. Because this makes the letter's release a matter of paramount benefit to the public, any costs validly incurred in searching for it should be waived.

My own view is that you are trying to delay and avoid the release

of Warren's letter because you know that its text is opposed to the policy of suppression which the Department of Justice is carrying out. If my view is wrong, then the release of this letter serves not only the public interest, but your own interest as well. If my view is wrong, I am sure I can anticipate the letter's speedy and inexpensive release.

So, as of publication, there the matter rests, the words of the chief justice/chairman withheld by the suppressing bureaucracy which was careful to make a false record of cooperativeness, one it might later quote in self-service.

Having had no response to previous requests for evidence of another trick practiced to disguise raw suppression, Lesar wrote another letter the same day he wrote Petersen. It was greeted with the same silence:

Dear Mr. Werdig:

During oral argument of Weisberg v. Department of Justice, Civil Action No. 2301-70, on November 16, 1970, you stated to Judge Sirica: "In this instance the Attorney General of the United States has determined that it is not in the national interest to divulge these spectrographic analyses."

Could you please provide me with a copy of that determination?

Lesar was neither wasting time nor playing games. In passing the Freedom of Information law, the Congress specifically ended the meaningless "national interest" excuse for suppression. The words can be and in practice have been defined to mean whatever any interpreter bent on suppression decided his purposes required. Moreover, this is a representation Werdig did make to a court, one of the bases for its ruling in the spectro case. If the "determination" does not exist, many questions, only one of which is fraud, become immediate.

And can an illegal "determination" exist?

Rhoads' July 22 explanation of why he gave Weisberg this transcript after the court ruled he need not is a masterpiece of lying and deceiving while staying within literal truth:

Shortly after the filing of your suit, our attorneys advised me of the necessity for such a review in light of the upcoming tenth anniversary of the transcript's creation. In accordance with the terms of the Executive Order, I solicited the opinions and comments of the Department of Justice and the Central Intelligence Agency, agencies which had a direct subject matter interest in the contents of the requested record,

This says there was no executive order review until 1974. That is a lie. Weisberg replied telling Rhoads there had been a review before he filed suit and that the explanation explained nothing. It raised new and unanswered questions. Two years earlier, on May 8, 1972, Rhoads testified before the House Government Operations Subcommittee. This excerpt from his "insertion for page 1845" of that testimony is explicit in saying that as of then this review was required and was being conducted:

The five year review of the records withheld from research as a result of the 1967 review is now being conducted. This review includes a survey of the security classified documents among the Commission's records to determine whether they should be declassified or downgraded under the provisions of Executive Order 11652 (37 F.R. 5209), which goes into effect on June 1, 1972.

It cannot be both ways. One is false and if that one is under oath, there should be a question of perjury.

Toward the end of his letter, Rhoads slipped in the truth, that in 1972 the Department of Justice and CIA had reviewed this transcript and had kept it classified TOP SECRET. But the only basis was the one ruled illegal by Gesell. It was in fact illegal to the knowledge of all agencies. Their reasons were stonewalling and suppression. If it met requirements for release to Weisberg in 1974, it met them as well in 1972. His prospects in a 1972 suit were better, so they stalled that, too, until official embarrassment was reduced by Watergate numbing of public sensitivities.

Nor did Rhoads once mention waiver of the "investigatory files" exemption on which he had won in court fraudulently.

When the executive agencies can toy with the law and the courts this way and systematically and deliberately violate the rights of citizens, it is a futility for Congress to enact proper and needed amendments. If the old law, which was clearly applicable in this suit, could be violated with impunity, if the government deceived the court and, as we think, swore falsely and there is no retribution, laws mean nothing.

With the government also the prosecutor, it is not about to prosecute itself.

Unless the Congress and the courts determine to do something about this stonewalling, deception and immune violation of the law, law has no meaning, there is no restraint on federal power and there will be more stonewalling and denials of rights.

In the end this means authoritarianism.

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# Veto Threat Disrupts Information Act Talks

By Bob Kuttner

Washington Post Staff Writer

A House-Senate conference committee meeting to complete action on long-stalled amendments to the Freedom of Information Act broke up yesterday in disarray over a letter from President Ford warning that the bill might be vetoed unless several changes were made.

Last week, as the conferees were on the verge of finishing the measure, they deferred to a telephoned request from the Justice Department indicating that the new President wanted a week to review the bill and make recommendations.

The recommendations came yesterday in individual letters to the conferees. In the letters, President Ford criticized several already-approved sections intended to strengthen enforcement of the 1966 Freedom of Information Act.

The President's objections echoed long-standing criticisms of the bill by the Justice Department. Specifically, Mr. Ford said he could not accept the bill's provision permitting federal judges to determine whether secret documents were properly classified in the first place. That section was intended to overrule the Supreme Court's ruling that the government's classification of a document is not subject to judicial review.

Mr. Ford also said he objects to another key section giving the public broader access to information in government investigatory files. And he said he opposes the sanction provision added by the Senate setting penalties for bureaucrats who wrongfully withhold information from the public.

"Neither the best interests

of government nor the public would be served by subjecting an employee to this kind of personal liability for the performance of his official duties," the President wrote.

However, the House conferees decided to risk a veto and voted 4 to 3 to accept the sanction provision with minor modifications. Later, the three outvoted House members, Frank Horton (R-N.Y.), John N. Erlenborn (R-Ill.) and Chet Holifield (D-Calif.) announced they would refuse to sign the conference report.

On the section giving courts the power to overrule security classifications a majority of the conferees decided to compromise.

They agreed to language denying public access to information "from a confidential source in the case of a record compiled by a criminal law enforcement agency in the course of a criminal or national security investigation."

That concession was too much for Rep. John E. Moss (D-Calif.), architect of the original 1966 Freedom of Information Act. "I can't sign this," Moss declared, and walked out.

After this book was delivered to the printer and the day the index was completed, this news item appeared. It means that, despite all his talk about an "open administration", Ford was firmly behind opposition to real "freedom of information". Stripped of its official window-dressing, this first serious Ford administration legislative act meant continuing the "Freedom of Information" as close as possible to the licence to suppress into which Nixon had converted it.