

Part 3/2/74

The Misuse of Tax Returns

PRESIDENT NIXON has advanced the cause of personal privacy by revoking the year-old executive order which allowed the Agriculture Department to examine the tax returns of the nation's 3 million farmers. The cancellation, which was recommended by Vice President Ford's new committee on privacy, was long overdue, because the executive order involved should never have been issued at all.

This controversy has been a good example of the way in which bureaucracies, if not carefully watched, can chip away at citizens' rights without meaning to do any damage at all. The order was issued, in essence, because the Agriculture Department wanted to collect a large amount of information on farmers' incomes and decided it would be more convenient to consult the files of IRS than to ask individual farmers to provide the sensitive data directly and voluntarily. But by giving USDA blanket permission to look at the tax returns of a whole class of citizens, President Nixon approved a major departure from past practices, under which agencies had been allowed access to tax returns only when probing some individual's activities.

Executive Order 11697 thus raised serious privacy issues, as Rep. Jerry Litton (D-Mo), Rep. Bill Alexander (D-Ark.) and others protested. The order was doubly troubling because, according to a Justice Department memorandum, it was meant to be a "prototype" for similar broad searches of IRS files by other agencies. Thanks to a House government operations subcommittee probe and the resistance of the IRS, the Agriculture study was never carried out. Now, finally, the entire exercise has been abandoned.

Another case, involving the Office of Education, also suggests that agencies may be getting more sensitive to taxpayers' rights of privacy. This case involves the program of basic educational opportunity grants, aid

given to college students from low-income families. Since the grants are based on complicated calculations of need, the program's administrators understandably want to be able to verify the income data which applicants submit. The problem is how this should be done. Last year, the application form included this affidavit (actual size):

I (We) certify that I (we) have read this application and that it is accurate and complete to the best of my (our) knowledge. I (we) authorize the United States Commissioner of Education, or his representative, to obtain from the District Director of Internal Revenue with whom it was filed, a copy of the 1972 Federal Income Tax Return upon which the computation of expected family contribution is based, in order to verify the foregoing statement. I (We) further agree to provide, if requested, any other documentation necessary to verify information reported on this form.

Thus every applicant, whether or not he could decipher the fine print, was—as the price of the application—allowing the agency to inspect his tax return without further notice. An agency spokesman says that the language was meant primarily as a warning against fraud and that no such searches have actually been made. Indeed, somebody had some second thoughts about the whole procedure, because the language in this year's form is slightly bigger and much better. It reads (actual size):

I (We) certify that I (We) have read this application and that it is accurate and complete to the best of my (our) knowledge. I (We) agree to provide, if requested, any documentation, including a copy of my (our) 1973 Federal Income Tax Return, necessary to verify information submitted on this form.

Such changes are encouraging—but the privacy of tax returns should not depend on bureaucratic second thoughts. IRS Commissioner Donald C. Alexander agrees. He has endorsed a House Government Operations Committee recommendation that federal tax returns should be made explicitly confidential by law, with Congress—and only Congress—deciding what exceptions are justifiable in the interests of law enforcement and other public purposes. This is a simple, sensible approach. Vice President Ford's committee should endorse it and Congress should act on it right away.