

INFORMATION ACT SCORED AS FUTILE

Nader Assistant Criticizes It
—Official Defends Law

By RICHARD HALLORAN

Special to The New York Times

WASHINGTON, March 14—

A lawyer with Ralph Nader's Center for Study of Responsive Law asserted today that the Freedom of Information Act of 1967 "has foundered on the rocks of bureaucratic self-interest and secrecy."

Peter H. Schuck, a consultant to the consumer advocate's law center, told a House subcommittee that "a statute which should have facilitated public participation in the public's works has instead engendered endless litigation" and has "produced relatively little information of consequence."

However, Roger C. Cramton, chairman of the Administrative Conference of the United States, an independent Federal agency that monitors Government procedures, testified at the same hearing that "the act is a success story in the possibility of orderly change of bureaucratic organizations."

'Problems Remain'

But Mr. Cramton added, "Despite the substantial progress, uncertainties and problems remain in abundance. Complaints continue to abound of foot-dragging and unnecessary red tape in making information available."

Mr. Schuck and Mr. Cramton appeared before a Government Operations subcommittee headed by Representative William S. Moorhead, Democrat of Pennsylvania. It is investigating the implementation of the Freedom of INFORMATION Act, which was intended to open up sources of Government information to private citizens.

Mr. Schuck said he had been denied information on a Missouri meat inspection program of the Department of Agriculture by what he called the "fob - him - - off - with - a meaningless - summary" stratagem or the "delay - until - the - information - becomes - stale" routine.

Mr. Schuck also alleged that he had been denied information on the Department of Agriculture's civil rights record by what he termed the "it's-exempt - because - it's - embarrassing" approach. Under the act, certain categories of information are exempt from disclosure.

In a third example, Mr. Schuck said another attorney from Mr. Nader's center had asked for information on suspected violations of Federal meat laws and had been denied it by a "sue-us-again" tactic. He contended that the right of access had been established by a court ruling but that the Department of Agriculture insisted on having the issue decided in court again.

Neither the public information officer of the Agriculture Department nor an official of the department's office of legal counsel had any comment. A representative of the department is scheduled to appear before Mr. Moorhead's panel later this month.

Incentives Recommended

Mr. Schuck recommended that the act be strengthened by legislating "sufficient incentives for bureaucratic compliance so that the act will become to a significant extent self-enforcing." Among his suggestions were the following:

• Establishing a freedom of information unit outside the existing agencies to police enforcement of the law.

• Setting specific deadlines by which Government agencies must respond to requests for information, either affirmatively or negatively.

• Allowing applicants for information to recover legal fees if a court rules that he should be given the information. "If the court rules that the agency's denial of the information was frivolous or willful, the requester should be entitled to recover punitive damages from the agency," Mr. Schuck said.

Amending the act to include information in the hands of Congress and the work of Government consultants and contractors.

Mr. Cramton was less specific but more wide-ranging in his testimony. He said that the record of compliance with general principles the Administrative Conference had recommended was good. But compliance with specific proposals, he said, was "much more checkered."

Mr. Cramton, who was formerly a professor of law at the University of Michigan, said that agency rules were good about identifying offices where the public may go for information and that few agencies require special forms for requesting it.

But, he said, few agencies have rules requiring an answer to a request within a given time and few require that the reasons for a denial of information be given. Moreover, he said, few have rules governing the time in which an appeal must be taken or the time for a response to an appeal.