

# Amending the Information Act

OCT 5 1974

FOR SEVERAL years now, the public and the press have had at their disposal an instrument to pry unwarranted secrets out of government agencies, but it is so cumbersome that it is little used. Only a handful of cases has been brought by the news media under the Freedom of Information Act, and those took many months to resolve.

Now Congress has brightened the future of openness in government, and President Ford will soon have an opportunity to share in the results. By overwhelming votes of both the House and the Senate, a series of amendments has been proposed for the old Freedom of Information Act which should make it much easier for citizens and journalists to learn what the government is doing in their behalf. The bill has emerged from conference in good shape. It has already been given final approval by the Senate, and the House is expected to do the same next week. Then it will be up to Mr. Ford—and there the outcome is not as certain.

The Justice Department has expressed the fear that the new regulations would make FBI files vulnerable to search by the public and the press. Indeed, the act does require the disclosure of certain types of investigative information, but it safeguards that involving current prosecutions. Nevertheless the Justice Department has continued to object and has from time to time advocated a presidential veto. But we suspect that the valid interests of the FBI will be amply protected by the courts when those interests are in need of defending. And in the meantime the value of the legislation is so great it would be a pity if the President chose to veto it on these grounds.

The new amendments would require agencies to keep an index of the documents they generate so that citizens for the first time would have some orderly way of keeping track of what government agencies are doing. They

would shorten to 30 days the amount of time in which an agency would have to respond to a suit claiming that valid information had been denied. If a citizen were to sustain his claim in court, the agency might be required to pay his legal fees. Agency officials who withheld information the court believed they should have provided could be required to answer for their actions before the U.S. Civil Service Commission. The agencies would be required to conform to strict guidelines in handling requests for information, and they would have to report to Congress once a year on their performance.

Even with the possibility of a presidential veto—remote though we hope it is—there may well be sufficient votes to override, because the original bill passed both houses by large margins.

The remaining imponderables concern the various news media themselves. In the past, the scant use of the act by the press could conveniently be attributed to the amount of work and frustration that went into trying to make use of it. The frustration was not just at the hand of the agencies, but also at that of the courts, which often showed less enthusiasm than they should have for cases involving the information law.

Now that Congress has expressed its clear intent that adjudication under the act should be speedy, it can be hoped that, if the legislation becomes law, the courts will act within that spirit. All of this should make journalists more aggressive about using this improved instrument. Even under the old law, the act proved useful to those with the perseverance to keep pushing. That is how Carl Stern of NBC News was able to discover from the FBI that the late J. Edgar Hoover took it upon himself to mandate the unconstitutional harassment of political dissenters. Learning how government business is done is the business of the media, and this new measure could help, if it is 1) signed into law and 2) used.