



REMARKS BY THE GOVERNOR
OF THE COMMONWEALTH OF PUERTO RICO
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AT THE OVERSEAS PRESS CLUB

FEBRUARY 19, 1976

Two years ago my administration presented a freedom of information bill. The purpose of that bill was to guarantee each and every citizen access to information generated and stored by its government. The extent or quality of government's openness determines the extent or quality its democratic process. A person can not be a "participating" citizen if government is to limit his ability to get the information he needs to make responsible decisions. Citizen accessibility then was the central concept of that bill.

The bill was passed by the Legislature, but I then vetoed it. I exercised the veto because of legitimate objections raised by the Press. In a new bill which was introduced last month we have sought to deal with those objections. We hope this improved version will receive your endorsement because the truth is the status-quo situation is intolerable for a democratic society.

The present legal basis for making government information available to its citizens is arbitrary and confused. The Civil Code states that all public documents should be made available to the public without giving an adequate definition of what constitutes a public document. Two Secretaries of Justice have attempted to define the limits of public accessibility to public documentation in

opinions emitted in 1957 and 1964. In both cases, the opinions tend to restrict accessibility and confer ultimate responsibility for making a document public on the personal judgement of a department or agency head.

In 1957 the Justice Secretary Fernández-Badillo restricted all documents that do not deal directly with enforcing a law, all documents that are of "incidental nature" in the administration of any agency or office and all documents whose publication may harm the "good functioning" of an agency.

Within these restrictive guidelines, Justice Secretary, Hiram Cancio, went one step further when in 1964 opinion he said information should only be given to those with a "legitimate interest". He said information should not be provided to satisfy "mere curiosity".

Under these guidelines, it is understood that the agency head who controls information is the one who decides "legitimate interest", "harm to good functioning", and "incidental nature", without any clear definitions and without being subjected to direct review.

Many times the press has been denied information under these guidelines and many times more private citizens, with far less power than the press have been turned away empty handed.

The new freedom of informations bill eliminates these archaic ill-defined, information rules and takes out of the hands individual government heads the ultimate judgement of a document's public or private nature. Individual arbitrariness is replaced by a "Junta" that will be dealing with the day to day problems of information accesibility.

Now, of course, if a person does not agree with an agency head's decision, he must recur to courts for recoures which for all practical purposes favors the Government, not the citizen.

The new version, like the old, requires the agencies to publish an index of the information it has of public nature. Such an index in itself is a tremendous advance. How much information is now stored by agencies about which nobody knows anything? For the first time we will have in an organized form a listing of the material accessible to each and every citizen.

The new bill also requiers agencies to publish in the Boletín del Estado Libre Asociado the internal agency rules, procedures and determinations, and, unlike the old version, the salaries and positions of its employees.

But the accesibility of information is not a right without limits. I think no one here would disagree that

some information obtained or generated by the Government must be restricted. It is in defining these restrictions where we have run into problems in the past and where our mutual cooperation and understanding is demanding if we are to succeed in the future.

In both versions, information is restricted in cases involving criminal or administrative investigations. I think we are all of accord that investigations of this nature could prejudice the case or individuals if made public too soon or at all. Also, information should not be released that would infringe in a person's right to privacy. The new version has the advantage of defining in general terms what is understood by privacy. Specifically, it exempts a person's medial record, personal information supplied to an agency in confidentially, home address or information about a person that has no bearing on his official work. I think we would all agree that just because a person is a public employee does not mean he losses his right to privacy.

Inclusion of the bill's definition of privacy responded to complaints by press to the original version which presented the concept without explanation, the fear arose that the right of privacy would substitute our present day stumbling blocks of "incidental nature" and

"harm to good functioning".

The new version also attempts to answer Press' second major objection to the original bill, the provision dealing with information limitation by executive order. The fear here was that the provision was too broad and unrestricted and that any agency head could issue an executive order restricting information. The new bill deals with this objection by limiting restrictive executive orders to matters of public security and, second, by making it clear that only the Governor can issue such an order.

The new law also restricts information received by informers, information dealing with our natural resources which would prejudice the interest of the state, information which would put commercial enterprises in competitive disadvantage, such as revealing trade secrets, and information exempted by existing law.

What is left, that is, what is opened to public is a veritable gold mine compared to the present. And it is much better than the recent Federal Freedom/Information Act. Unlike the Federal law, our bill covers all three branches of Government. Unlike the Federal Law, the internal rules and regulations of an agency constitute public information and unlike the Federal Statute, most

internal memos, correspondence, and files are all considered public documents. In addition, all studies, reports, films, pictures, data, statistics are singled out for public purusal as are agency minutes, decisions, and opinions, both majority and dissenting. Also all information dealing with the disbursement of public funds ia made public. What we have here is a real key opening up the closed doors of Government, so you, the citizen, can become better informed and better advised.

I have described in broad outlines what we believe are the enormous benefits of the new freedom of information bill. I have not dealt with every provision nor do I presume that the present draft is final or perfect. But I sincerely believe that what we propose is light years ahead of what we have; that this bill, if approved, will extend you the Press and to each individual citizens a useful, profitble, and beneficial tool.

I invite you to study this bill and to work with me so we can produce a bill and then a law to the benefit of all, press and citizen, a law which will strengthen our democracy and our faith in Government.