

I think it is quite clear that since the Administrative Procedure Act has been in force, it has been used more often as an excuse for not furnishing public information than as imposing an obligation to furnish information where I think it should be furnished. That is, I doubt that any information has been furnished except for publication in the Federal Register that would not have been furnished anyway if the Administrative Procedure Act had not been adopted, and I think it has been used as an excuse, that and the old section 22 were used as excuses for not furnishing information which, if they had not offered the surface excuse, might have been furnished.

Mr. KASS. Mr. Benjamin, I had refrained earlier from asking you any questions because you said your doctor told you not to work.

Mr. BENJAMIN. Oh, that is all right, I feel fine today.

Mr. KASS. I hope these questions will be more enjoyable than work.

Either Mr. Benjamin or Mr. Hanes, do you then think that an amendment to section 5, United States Code, title 22, the housekeeping statute, would be, for the purpose of establishing a Federal public records law, the better place for such a law than in the Administrative Procedure Act?

Mr. BENJAMIN. I think there are some advantages to including it in the Administrative Procedure Act.

Mr. KASS. As a cross-reference?

Mr. BENJAMIN. Yes, because whether it is adopted as this first, otherwise I think it is less awkward to put it in a new Administrative Procedure Act than to repeal parts of the present Administrative Procedure Act, and I think the rest of section 3 of S. 1336 or S. 1663 of the last Congress in the Senate have other things to do with public information which are also important, and I think there is logic in having them all in one section. But this seems to me the most important feature of S. 1066, I guess it is, in this Congress, which was S. 1666 in the last Congress. This is the most important feature of it. I am informed it is 1166.

Mr. KASS. For the record, S. 1666 referred to was the bill passed last year by the Senate to amend section 3 of the Administrative Procedure Act.

For the record also, S. 1160 was the bill introduced this year by Senator Long to amend section 3 of the Administrative Procedure Act.

Mr. BENJAMIN. There are a few minor differences in the new bill and the bill that passed the Senate last year.

Mr. KASS. Yes, sir; there are.

Mr. BENJAMIN. But they are not of great consequence.

Mr. HANES. Mr. Kass, I just want to say, supplementing what Mr. Benjamin has said, that while we think that the provisions of this present bill, which would replace subsection (c) of section 3 of the Administrative Procedure Act, are most important, it does seem to us that there are some advantages in having in the same bill complete provisions with regard to publications and complete provisions with regard to making available agency opinions and decisions, which would be in the first two sections of an amended section 3 of the Administrative Procedure Act.

Mr. BENJAMIN. I do not think either of us wants to let that go without saying that we would much rather have a separate bill like