

component within the Department of Juvenile Services which would provide diagnosis, screening and diversion. The goal in this area is that only 10 per cent of all juveniles first reaching intake would go through the formal adjudication process.)

Diversion

The report said each local jurisdiction should develop and implement by 1976 formally organized programs for diversion that can be applied in the criminal justice process from the time an illegal act occurs to the moment of adjudication.

Factors to be considered in determining whether an offender is to be selected for diversion include: the arrest has already served as the desired deterrent, the needs and interests of the victim and society are better served by diversion than by official processing, the offender does not present a substantial danger to others, the offender voluntarily accepts the offered alternative to further criminal justice system process, or the facts of the case do not sufficiently establish that the defendant committed the alleged act.

(The Governor's Commission has provided substantial funding support to a diversion project in Baltimore City, Project F.O.U.N.D. (First Offenders Under New Direction). The project is designed to divert from the court process young adult first offenders charged with certain misdemeanors. It offers a combination of counseling, educational, vocational and supportive services as an alternative to criminal adjudication.)

FREEDOM OF INFORMATION ACT

Mr. MUSKIE. Mr. President, the Senate and House have sent to the President a bill to insure greater openness and public knowledge about the way our Government is run. The amendments to the Freedom of Information Act of 1966 are a most significant product of this post-Watergate period because they will bring the people closer to the materials, facts and documents on which officials in the Government base their decisions and policies.

That legislation may be in jeopardy. While it was sent to the President on October 9, we must still await a decision whether he will sign the measure into law or return it to the Congress with a veto. Unfortunately, should the Congress recess before midnight Saturday, President Ford could simply let the bill sit on his desk to die by the pocket veto.

This would be a serious blow to our Government as we attempt to restore public confidence through more open processes.

Congress cannot override a pocket veto. Instead we would have to wait until next session and begin again with a new bill.

We must not delay the people's opportunity to know more about their Government. Already that right has been eroded by too little candor and too much secrecy.

It would be a regrettable irony if a decision to deny the people greater access to their Government is decided without further debate behind closed doors of the White House by a new administration, only recently pledged to openness and candor.

I want to take this opportunity to extend my congratulations and appreciation to my friend and able colleague the senior Senator from Massachusetts (Mr. KENNEDY) for the dedicated contribution

he has made to these important improvements of the Freedom of Information Act.

No one can underestimate the diligence and concern with which he, the other members of the Committee on the Judiciary, and the Senate and House conferees have worked to insure that the changes made in the 1967 act will, in fact, further the vital work of making Government records readily available for public scrutiny and making the conduct of the public business a subject for informed public comment.

This has been a very rare and important opportunity to correct the defects we discovered in the administration of the act during joint hearings I conducted with Senator KENNEDY and Senator ERVIN last year. In many important procedural areas the conference report on H.R. 12471 will close loopholes through which agencies were evading their duties to the public right to know.

The price of a court suit has too long been a deterrent to legitimate citizen contests of Government secrecy claims. This legislation will enable courts to award costs and attorneys' fees to plaintiffs who successfully contest agency withholding of information. Additionally, these changes will require agencies to respond promptly to requests for access to information. They will help bar the stalling tactics which too many agencies have used to frustrate requests for material until the material loses its timeliness to an issue under public debate. And they provide long-overdue assurance that agencies will report to the Congress on their policies and actions in handling Freedom of Information Act cases.

In one major respect this legislation responds to a weakness in the existing law which was illustrated in the case of Environmental Protection Agency against Patsy T. Mink, and others, decided by the Supreme Court on January 22, 1973.

In that case, 32 Members of Congress, bringing suit as private citizens, sought access to information dealing with the atomic test on Amchitka Island in Alaska.

A U.S. court of appeals directed the Federal district judge trying the case to review the documents in camera to determine which, if any, should be released. This seemed an appropriate step since the act now provides for court determination of the validity of any executive branch withholdings.

The Supreme Court was asked to review that order and reached a decision in that case which was somewhat tortuous. The Court held that in camera review of material classified for national defense or foreign policy reasons was not permitted by the act. The basis of this decision was the exemption of the act which permits withholding of matters authorized by Executive order to be kept secret in the interests of national defense or foreign policy.

The Supreme Court decided that once the executive had shown that documents were so classified, the judiciary could not intrude. Thus, the mere rubberstamping of a document as "secret" could forever immunize it from disclosure. All the

Court could determine was whether it was so stamped.

The measure before the President would specifically overrule that holding. And it is that provision which seems to cause him the greatest difficulty.

When the Freedom of Information Act amendments were considered by the Senate, I offered a change which would authorize the courts to conduct in camera a review of documents classified by the Government to determine if the public interest would be better served by keeping the information in question secret or making it available to the public.

My amendment was a response to the increased tendency of former administrations to use national security to shield errors in judgment or controversial decisions.

It was a response as well to the mounting evidence, more recently confirmed in tapes of Presidential conversations, that national security reasons were deliberately used to block investigations of White House involvement in Watergate.

Finally that amendment reflects confidence in the Federal judiciary to review determinations to classify secret documents and to decide whether the greater public interest rests with public disclosure or continued protection.

I cannot understand why we should trust a Federal judge to sort out valid from invalid claims of executive privilege in litigation involving criminal conduct, but not trust him or his colleagues to make the same unfettered judgments in matters allegedly connected to the conduct of national defense or foreign policy.

As a practical matter, I cannot imagine that any Federal judge would throw open the gates of the Nation's classified secrets, or that they would substitute their judgment for the head of an agency without carefully weighing all the evidence in the arguments presented by both sides. It is doubtful that there is any Federal judge in the country that would not give weight to an affidavit from the head of an agency which argues the merits for classifying a particular document without giving that affidavit a special status.

If we construct the manner in which courts may perform this vital review function, we make the classifiers privileged officials, almost immune from the accountability we insist on from their colleagues.

An editorial in the New York Times today refers to reservations the President reportedly has expressed about this legislation on national security grounds.

I believe as the editorial states that the Congress has "made an extraordinary legislative effort to balance the public's right to information with the Government's need to protect its legitimate secrets," and I would strongly urge the President to sign this important bill into law.

If he cannot sign it, he should so state his reasons and offer the Congress an opportunity to accept or reject the veto by a two-thirds vote in both Houses.

I ask unanimous consent that the October 17, 1974, New York Times editorial, "More Open Government," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Oct. 17, 1974]

MORE OPEN GOVERNMENT

The Freedom of Information Act was passed by Congress in 1966 on the assumption that the public should have broad right of access to information about the workings of its Government. The act hasn't functioned particularly well since it went into effect because of the Federal Government's use of a variety of obstructionist tactics ranging from forcing those seeking information into long and costly litigation to plain old bureaucratic foot-dragging.

Congress has now passed and sent to the White House a number of amendments designed to make the law work more effectively, including a provision that would subject to judicial review decisions on the classification of information. Other amendments would open up noncriminal investigatory files for the first time and would award attorney's fees to successful public litigant.

The Department of Justice is reported to have recommended that President Ford veto this legislation. The President himself has reportedly expressed reservations about the bill on national security grounds.

Mr. Ford's concern appears misplaced. Congress, in developing the new amendments, made an extraordinary legislative effort to balance the public's right to information with the Government's need to protect its legitimate secrets. Unless the President feels that the Federal Judiciary is insensitive to national security or is incapable of handling such issues appropriately, he can have no justifiable fears about the law's adequacy to protect legitimate national secrets.

The ability to preserve free and responsive government depends in large measure on the preservation of open government to the greatest possible degree. That is the principle that animated the Congress in passing the amendments. It is the motivation that should lead the President to sign them into law.

FARM-RETAIL PRICE SPREADS FOR RED MEAT

Mr. McCURE, Mr. President, the past year has not been a good one for either farmers or consumers. We have seen store prices going up while farm prices were going down. Consumers have boycotted, because they could not afford to buy, while farmers have destroyed animals they could not afford to raise.

While there are a number of factors which have led to this paradoxical situation, one of the major ones is the increasing farm-retail price spreads. And the reaction has been just what we would expect—increasing criticism of the so-called middleman. But before we start allocating blame, we should attempt to get all the facts. In June, I joined with a number of my colleagues in calling on the President to investigate the increasing beef price spread, but as yet we have not received the administration's report.

However, while we are waiting for that report, there are some other sources of information which may prove helpful. A USDA Task Force prepared a report in August which partially explains the farm-retail price spreads for pork and choice beef.

This report not only shows how much the price spreads have increased—ap-

proximately 50 percent since 1968—but explains in general terms those factors which have been primarily responsible for this increase. It is interesting to note, for example, that since 1963, more than 90 percent of the farm-retail spread for beef has occurred in the carcass-retail segment of the spread.

While the report is rather general in most of its data and comments, it does provide a rather useful summary, as well as some suggestions on improving meat marketing performance in order to reduce the spread.

I, therefore, ask unanimous consent to have this report printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

FARM-RETAIL PRICE SPREADS FOR RED MEAT

(Report of a Special Task Force to Earl L. Butz, Secretary of Agriculture, August 1974)

The farm-retail spread, or margin, for beef or pork is the difference between a monthly average composite price per pound of selected cuts at retail and the farm value of the equivalent quantity of live animals less the value of byproducts.

Thus, the farm-retail spread is a measure of the charges for all marketing, processing and distribution activities that occur between the "farm gate" and consumer purchase of the product at retail.

Spreads, or margins, for meat, then, include charges for such activities as transporting animals to packing plants, slaughtering animals and processing products, packaging of product and shipping meat and products to major consuming areas. Each activity involves expenditures for labor, energy, capital, taxes and depreciation of fixed assets.

All such costs, plus profits earned by firms, are included in the price spread or margin reported by USDA. By the way, the price spread gives no indication of whether the industry is efficient or inefficient, or whether costs for marketing, processing and distribution are reasonable or excessive.

WHAT HAS HAPPENED SINCE 1963?

Price spreads for beef and pork have widened substantially in the past 10 years, particularly since 1968. Between 1963 and 1968 the spread for beef hovered between 28 and 30 cents per pound. Then it increased sharply and persistently to 45 cents per pound in 1973—a jump of about 50 percent.

Margins for pork have followed similar patterns but with greater year-to-year changes—ranging between 29 and 32 cents per pound in 1963-69, then widening to 38 cents per pound in 1973—an increase of about one-third.

Several factors contributed to the trend toward wider margins for red meat. Most important have been the sharp increases in costs of labor and other services and supplies required by marketing firms. Hourly earnings of workers in meat packing and processing are three-fourths higher than earnings in 1963. In the food retailing sector hourly wage earnings are about 80 percent higher than in 1963.

Despite labor saving technology and increased labor productivity total labor costs have risen substantially and account for about half of the farm-retail spread for beef and pork.

Prices of containers, packaging, energy and rail freight rates have undergone similar dramatic increases, particularly since 1969.

In a very real sense, marketing margins for meat are the result of the strong inflationary pressures in the American economy since 1969.

In addition, the meat marketing system, like other parts of the food system, now provides additional services in the form of further processing which requires relatively large inputs of labor. Costs of providing such services plus those for advertising, promotion and convenience of store location, exert pressure for widening margins for many foods, including red meat.

BEEF SPREAD SEGMENTS

Since 1963 more than 90 percent of the increase in the farm-retail spread for beef has occurred in the carcass-retail segment of the spread (Figure 1). This spread includes costs of activities such as carcass-breaking, local delivery, and retail cutting, packaging and selling.

The other segment, the farm-carcass spread, includes approximate costs of marketing, slaughtering and processing beef animals and transportation to consuming centers. Until the fourth quarter of 1973, when this spread nearly doubled, the farm-carcass spread had been remarkably stable since 1963.

It should be noted that these spreads are not synonymous with packer or retailer margins. The farm-carcass spread includes assembly and transportation of live animals to packing plants and meat to consuming center in addition to costs of slaughter at the packing plant. The carcass-retail spread includes wholesaling, local delivery costs, and some fabricating activities as well as costs of retailing.

Both packers and retailers do some breaking of carcasses but in the USDA price spreads all such activities are accounted for in the carcass-retail spread.

PORK SPREAD SEGMENTS

Changes in the farm-wholesale and wholesale-retail spreads for pork have shown somewhat different patterns from beef spreads.

Since packers do much more processing of pork than beef, the farm-wholesale spread for pork is substantially wider and more closely approximates packer margins than does the farm-carcass spread for beef.

The farm-wholesale spread for pork in 1973 averaged 15.3 cents per pound, about the same as in 1963. Again the major cause of the increase in farm-retail margins was centered in the wholesale-retail segment where margins in 1973 averaged 92 percent above 1963 and 26 percent above 1972.

PROFITS

Throughout much of the period since 1960, profits as a percentage of stockholder equity ranged between 10 and 13 percent for 15 major retail food chains as a group. As a percentage of sales, profits ranged between 1.1 and 1.3 through most of the period. Profit rates by both measures fell substantially in 1972 and 1973 and they were well below profit rates for other industry groups throughout the period 1960-73. Only recently have retailers' profits risen to their levels of the 1960's. Meat packer profits were more unstable but ran somewhat higher relative to sales than those of food retailers.

Overall, profits in meat packing and food retailing have not been excessive relative to all manufacturing industries in the country.

RECENT CHANGES IN PRICE SPREADS

Meat price margins exploded late in the third quarter of 1973. They rose to record high levels in late winter and early spring of 1974 while market prices for cattle and hogs dropped sharply and losses mounted for livestock feeders. Both livestock producers and meat consumers vented their frustrations against what they considered to be an unresponsive, profiteering, meat marketing system.

Farm-retail price spreads for beef peaked in March 1974 at about 56 cents per pound, dropped slightly in April and May and then rebounded to 54 cents in June. Only in the