

Opening up Government

THE much disliked Section 2 of the Official Secrets Act seems at long last to be on its way out. A White Paper just published by the British government (Cmd. 7285; HMSO, 70p) responds to the six-year-old report of the Franks Committee by agreeing in large part with the recommendations made by that committee and proposing a new Official Information Act. But the title of this act is somewhat misleading; it refers to restrictions on information available, not to making more information accessible. Those who looked for something akin to the US Freedom of Information Act are going to be disappointed.

Section 1 of the 1911 Act deals with the transmission of information that may be useful to an enemy. Section 2, however, is a much vaguer affair making it an offence for civil servants (and some others) to pass on without authority information received because of their official position. For every one instance where it makes perfect sense to discourage the passing on of information there is another where the restriction is preposterous. As the White Paper puts it "there must be hundreds of technical contraventions of the Act every day as Crown servants tell friends or relatives trivial details about their work." In practice commonsense generally prevails, but not unnaturally the civil servant tends to err on the side of caution.

What Franks recommended, and what the government seems set to do, is to restrict dramatically, in an Official Information Act, the scope of the information the release of which would continue to be a criminal offence. The Act would also make it much clearer what information fell within this category. In the area of law and order any information which could assist the committing of illegal acts, regardless of whether it had a classification, would be protected. Likewise any information held by the government about private individuals and concerns, would again be protected, regardless of any classification. On the other hand information in the fields of defence, internal security and foreign relations would be protected only if it bore a classification. And information in other fields should not be protected at all.

That six years have elapsed since Franks reported before the government felt able to make a move must mean that these reforms have been resisted by some

powerful people. But even so many concerned with gathering news and information have expressed bitter disappointment that more has not been said about 'open government'. The 1911 Act had nothing specifically to say on this subject, although undoubtedly it helped create an environment in which civil servants did not feel they could be entirely open. In recent years, the White Paper points out, government has indeed become more open with Green Papers, Select Committees, an Ombudsman and various other administrative measures. But should we go further and have some sort of Freedom of Information Act which would open up much more of the paperwork of government to the outsider? The White Paper lamely concludes that more studies need to be carried out before this question can be answered and this has drawn predictable flak from many who wonder why it has taken six years to discover that. This reaction, justifiable as it is, should not obscure, however, the central question of what would serve open government best.

An Official Information Act clarifies the civil servant's position but it does relatively little to encourage him to talk freely about what he is predisposed to keep quiet. A Freedom of Information Act would certainly allow outsiders access to papers, but they would have to know what to ask for. Without prompting from the civil servant some very important documents, theoretically accessible, would never be requested. Further, civil servants and others who thought their work likely to be exposed to all and sundry would be much more non-committal in documents and much more prone to make key observations verbally or on bits of paper that never got into the records. So it is at least arguable that open government would not best be served by a Freedom of Information Act. What is more needed is a gradual development of confidence between government, press and public that serious matters will be treated seriously and that information passed on will be complete. This requires a new breed of politician and a new breed of civil servant who trust the public and recognise that a 'public debate' on a subject means hearing the views of more than the charmed few. It also needs the sort of journalist who can respond sensibly to more openness. We really need new attitudes, not new acts. □