

ing in the coming 1976 fiscal year be held at least at the percentage level of the current fiscal year. And he concluded by indicating that Air Force support of basic research over a rea-

sonable period should be shifted to "predominantly" university support.

Air Force funds allocated for basic research amount to some \$74 million for the current fiscal year. (The com-

parable figure for the Army is \$62 million and for the Navy, \$105 million.) This is very close to the precise dollar figure for the same Air Force budget item in 1964. In between, the

Congress Strengthens Freedom of Information Act

The 8-year-old Freedom of Information Act (FOIA), which was enacted to facilitate the public's access to non-classified information held by the federal government, has been subjected to a good deal of attention lately by both the Congress and the courts. Newsmen and others have found the act of limited use as a lever for obtaining information because reluctant bureaucrats could often delay compliance interminably, and the expenses of bringing such cases to court have discouraged many from seeking judicial remedies.

Some of these problems may now be ameliorated. Last 21 November, Congress overturned a presidential veto of amendments to the FOIA. New procedural requirements now on the books should enable information-seekers to get faster and more complete access to government documents, and the burden of proof has been shifted slightly to the government in cases where it believes information should be withheld.

The FOIA has been the basis for two pieces of litigation that are of particular interest to scientists. One, which has not yet gone to court, involves the efforts of a group called the Public Interest Campaign to remove some of the secrecy from deliberations by committees of the National Academy of Sciences (NAS). The group has attempted without success to obtain information developed by the Committee on Motor Vehicle Emissions (CMVE) for a report contracted by the Environmental Protection Agency (EPA). The group holds that the NAS is an "agency" for the purposes of the FOIA and that therefore the meetings of its committees and their minutes and working papers should be open to the public. The plaintiffs' second line of argument is that the CMVE is an "advisory committee" within the meaning of the Federal Advisory Committee Act because it was, by implication, created by statute—namely the provision in the Clean Air Act that tells the EPA to perform emission studies with the aid of the NAS.

Both parties in the suit agree that the issues are swimming around in a gray area in which there are, because of the unique "quasi public" status of the NAS, few precedents. The NAS, a private corporation chartered by Congress, is not an "agency" under any accepted definition, but it has been argued that its advice is so influential within government that deliberations by its committees should be open to the same kind of scrutiny the law requires of federal advisory committees.

The NAS has filed a motion to dismiss the case, but what happens next won't be known until federal district court Judge John J. Sirica returns from his post-Watergate trial vacation next month. An NAS official notes that this suit might well contribute to increased openness on the part of the academy. But the NAS will stop at nothing to avoid being accorded federal "agency" status, a change

that, as it says in its brief, would mean "its character as an institution would be drastically altered or destroyed."

In the other case (*Science*, 15 November), a private group, the Washington Research Project, has obtained a ruling from the D.C. Court of Appeals that could compel the National Institutes of Health (NIH) to reveal the contents of research grant applications. NIH officials are in a dither about it and are trying to figure out ways of narrowing the effects of the ruling because they think research designs deserve to be treated as trade secrets. Meanwhile, the plaintiffs are pressing on to seek a Supreme Court ruling that would compel NIH also to open "pink sheets," or preliminary evaluations of grant applications, to public scrutiny.

The new amendments to the FOIA have no substantive impact on either of the above cases, although the prevailing anti-secrecy climate they reflect could affect future judicial decisions. Pressure to amend the act increased in 1972 when Representative Patsy Mink (D-Hawaii) sued for the release of classified documents relating to the atomic test the Atomic Energy Commission staged on the Alaskan island of Amchitka. At that time, the Supreme Court ruled against Mink on the grounds the court had no power under the act to determine whether the documents in question ought to be classified. It could only rule on whether or not they were.

The amendments settle this problem with a provision that courts be allowed in camera to determine whether requested information is in fact justifiably classified. The amendments make one additional inroad in the act's exemptions: selected portions of law enforcement files may be made public where such disclosure does not jeopardize law enforcement activities. It is on the above grounds that Ford vetoed the act. In the first case, he said in camera review would, in effect, give a district judge the power to overrule a decision by the Secretary of Defense. In the second case, he said the burden of proof that certain material should not be aired would be wrongly laid on the government. The ease with which Ford's veto was overridden would seem to indicate his fears are not widely shared.

At any rate, framers of the amendments feel that the most important changes are procedural ones that will make it much more difficult for government officials to withhold information they would rather not release. The act allows the government 10 days to respond to requests for information and 30 days to respond to complaints by seekers of information. The act is also designed to ameliorate costs of litigation by giving courts discretion to decide who pays attorneys' fees. What's more, the amendments require government agencies to submit annual reports to Congress detailing instances in which requested information has been withheld, and why.—C.H.