

АНАЛИЗ БАЗОВЫХ ПОНЯТИЙ ИНФОРМАЦИОННОЙ СФЕРЫ

Юрий Викторович Волков,
доцент кафедры информационного права
Уральского государственного юридического
университета, к.ю.н., доцент

Базовые (основные) термина информационной сферы

- Информация – сущность, по поводу которой возникают отношения (*все предметные сферы информационного права*);
- Коммуникация – процесс передачи некой сущности, по поводу которого возникают отношения (*в информационном праве предметные сферы: информатизация, информационные технологии и защита информации*)

Дискуссионный объект отношений

Информация - обозначение содержания, получаемого нами из внешнего мира, в процессе приспособления к нему нас и наших чувств.

(Винер Н. Кибернетика, или управление и связь в животном и машине. 1948.)

Информация, в самом общем ее понимании, представляет собой *меру неоднородности* распределения материи и энергии в пространстве и времени, *меру изменений*, которыми сопровождаются все протекающие в мире процессы

(Глушков В. М. О кибернетике как науке // Кибернетика, мышление, жизнь. 1964.)

Дискуссионный объект отношений

- «information –
- 1. информация
- 2. осведомленность
- 3. **заявление об обвинении**
- 4. **донос**

(Англо-русский юридический словарь 2004.)

- Информация:
- 1. Действие по информированию.
- 2. Сообщение осведомляющее о положении дел или о чьей-нибудь деятельности, сведения о чём-нибудь

(Ушаков Д. Н. Большой толковый словарь русского языка. 2011.)

«Информация» в федеральных законах

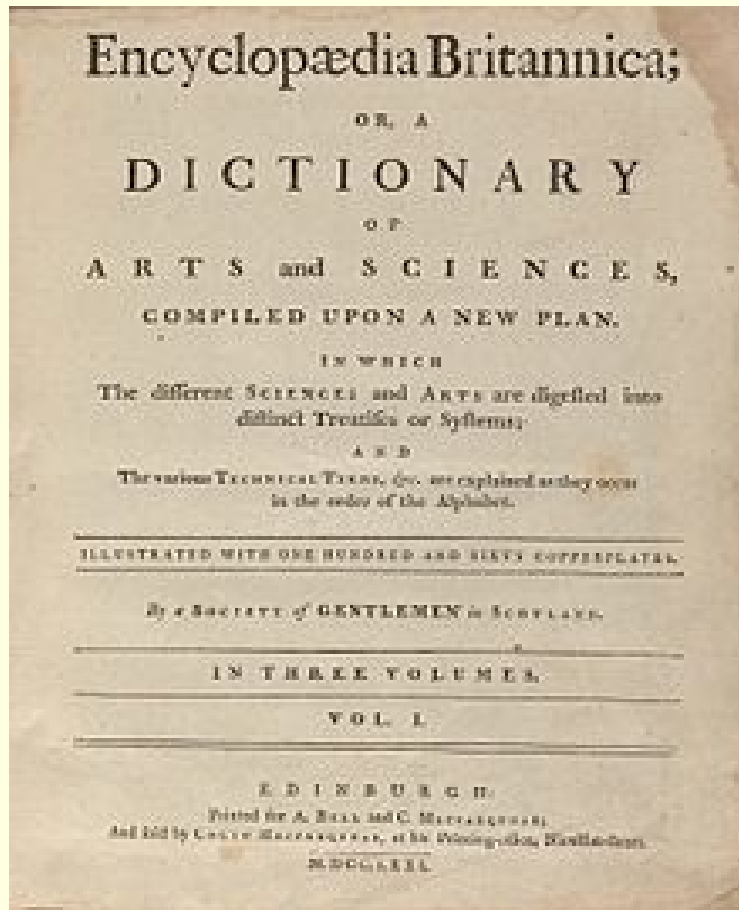
- **информация** - сведения о лицах, предметах, фактах, событиях, явлениях и процессах **независимо от формы** их представления (Федеральный закон от 20 февраля 1995 г. № 24-ФЗ «Об информации, информатизации и защите информации» (утратил силу));
- **информация** - сведения (сообщения, данные) **независимо от формы** их представления (Федеральный закон от 27 июля 2006 г. № 149-ФЗ "Об информации, информационных технологиях и о защите информации»)

А. А. Стрельцов об информации

- Информация представляет собой результаты отражения движения объектов материального мира, запечатленные в организме или коллективе организмов и используемые ими для адаптации к изменениям окружающей действительности.
- Она проявляется **в форме** сведений и сообщений.

*Примечание Волкова Ю.: **формализация**, как необходимая константа, присутствует в определениях многих авторов, порой и подсознательно.*

Происхождение термина информация



- Титульный лист Британской Энциклопедии первое издание в трёх томах 1771 год (*год ещё римским буквами обозначали*)
- (не содержит термина информация)

Происхождение термина информация

THE
ENCYCLOPÆDIA BRITANNICA
A
DICTIONARY
OF
ARTS, SCIENCES, LITERATURE AND GENERAL
INFORMATION
ELEVENTH EDITION
VOLUME XIV
HUSBAND to ITALIC

NEW YORK
THE ENCYCLOPÆDIA BRITANNICA COMPANY
1910

- Титульный лист Британской Энциклопедии
- 11-е издание
- 14 том
- 1910 год
- (в наименовании появился термин – общая информация)

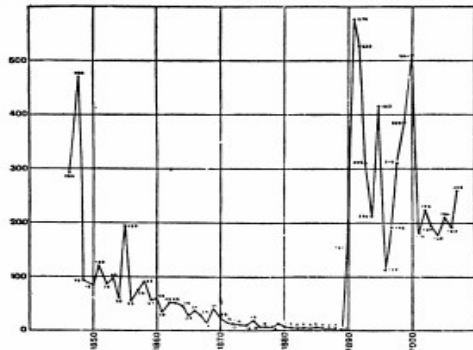
Происхождение термина информация

556

IN FORMA PAUPERIS—INFORMER

There is no routine treatment for influenza except bed. In all cases bed is advisable, because of the danger of lung complications, and in mild ones it is sufficient. Severe ones must be treated according to the symptoms. Quinine has been much used. Modern "anti-pyretic" drugs have also been extensively employed, and when applied with discretion they may be useful, but patients are not advised to prescribe them for themselves.

Sir Wm. Broadbent in a note on the prophylaxis of influenza recommends quinine in a dose of two grains every morning, and remarks: "I have had opportunities of obtaining extraordinary evidence of its protective power. In a large public school it was ordered to be taken every morning. Some of the boys in the school were home boarders, and it was found that while



the boarders at the school took the quinine in the presence of a master every morning, there were scarcely any cases of influenza among them, although the home boarders suffered nearly as much as before." He continues, "In a large girls' school near London the same thing was ordered, and the girls and mistresses took their morning dose but the servants were forgotten. The result was that scarcely any girl or mistress suffered while the servants were all down with influenza."

The liability to contract influenza, and the danger of an attack, is increased by depressing conditions, such as exposure to cold and to fatigue, whether mental or physical. Attention should, therefore, be paid to all measures tending to the maintenance of health. Persons who are attacked by influenza should at once seek rest, warmth and medical treatment, and they should bear in mind that the risk of relapse, with serious complications, constitutes a chief danger of the disease.

In addition to the ordinary text-books, see the series of articles by experts on different aspects in *The Practitioner* (London) for January 1907.

IN FORMA PAUPERIS (Latin, "in the character of pauper"), the legal phrase for a method of bringing or defending a case in court on the part of persons without means. By an English statute of 1495 (11 Hen. VII. c. 12), any poor person having cause of action was entitled to have a writ according to the nature of the case, without paying the fees thereon. The statute of 1495 was repealed by the Statute Law Revision and Civil Procedure Act 1883, but its provisions, as well as the chancery

practice were incorporated into one code and embodied in the rules of the Supreme Court (O. xvi. rr. 22-31). Now any person may be admitted to sue as a pauper, on proof that he is not worth £25, his wearing apparel and the subject matter of the cause or matter excepted. He must lay his case before counsel for opinion, and counsel's opinion thereon, with an affidavit of the party suing that the case contains a full and true statement of all the material facts to the best of his knowledge and belief, must be produced before the proper officers to whom the application is made. A person who desires to defend as a pauper must enter an appearance to a writ in the ordinary way and afterwards apply for an order to defend as a pauper. Where a person is admitted to sue or defend as a pauper, counsel and solicitor may be assigned to him, and such counsel and solicitor are not at liberty to refuse assistance unless there is some good reason for refusing. If any person admitted to sue or defend as a pauper agrees to pay fees to any person for the conduct of his business he will be disqualified. Costs ordered to be paid to a pauper are taxed as in other cases. Appeals to the House of Lords *in forma pauperis* were regulated by the Appeal (Forma Pauperis) Act 1893, which gave the House of Lords power to refuse a petition for leave to sue.

INFORMATION (from Lat. *informare*, to give shape or form to, to represent, describe), the communication of knowledge; in English law, a proceeding on behalf of the crown against a subject otherwise than by indictment. A criminal information is a proceeding in the King's bench by the attorney-general without the intervention of a grand jury. The attorney-general, or, in his absence, the solicitor-general, has a right *ex officio* to file a criminal information in respect of any indictments, but not for treason, felony or misprision of treason. It is, however, seldom exercised, except in cases which might be described as "enormous misdemeanours," such as those peculiarly tending to disturb or endanger the king's government, e.g. seditions, obstructing the king's officers in the execution of their duties, &c. In the form of the proceedings the attorney-general is said

to "come into the court of our Lord the king before the king himself at Westminster, and gives the court there to understand and be informed that, &c." Then follows the statement of the offence as in an indictment. The information is filed in the crown office without the leave of the court. An information may also be filed at the instance of a private prosecutor for misdemeanours not affecting the government, but being peculiarly flagrant and pernicious. Thus criminal informations have been granted for bribing or attempting to bribe public functionaries, and for aggravated libels on public or private persons. Leave to file an information is obtained after an application to show cause, founded on a sworn statement of the material facts of the case.

Certain suits might also be filed in Chancery by way of information in the name of the attorney-general, but this species of information was superseded by Order 1, rule 1 of the Rules of the Supreme Court, 1883, under which they are instituted in the ordinary way. Informations in the Court of Exchequer in revenue cases, also filed by the attorney-general, are still resorted to (see *A.G. v. Williamsen*, 1889, 60 L.T. 930).

INFORMER, in a general sense, one who communicates information. The term is applied to a person who prosecutes in any of the courts of law those who break any law or penal statute. Such a person is called a common informer when he furnishes evidence on criminal trials or prosecutes for breaches of penal laws solely for the purpose of obtaining the penalty recovered, or a share of it. An action by a common informer

Страница 556
Британской
Энциклопедии

11-е издание

14 том

1910 год

(статьи: информация;
информер)

Происхождение термина информация

INFORMATION (from Lat. *informare*, to give shape or form to, to represent, describe), the communication of knowledge; in English law, a proceeding on behalf of the crown against a subject otherwise than by indictment. A criminal information is a proceeding in the King's bench by the attorney-general without the intervention of a grand jury. The attorney-general, or, in his absence, the solicitor-general, has a right *ex officio* to file a criminal information in respect of any indictments, but not for treason, felonies or misprision of treason. It is, however, seldom exercised, except in cases which might be described as "enormous misdemeanours," such as those peculiarly tending to disturb or endanger the king's government, *e.g.* seditions, obstructing the king's officers in the execution of their duties, &c. In the form of

- Информация (от латинского *informare* – давать описание или **форму**, представлять, описывать,) - сообщение, передача знаний; в Английском праве, в процессе предмет обвинения. Уголовное обвинение Королевском суде предъявленное генеральным прокурором в отсутствие присяжных. Генеральный прокурор, или Поверенный Короля имеет право *официально* предъявить обвинение

Информация – юридическая природа термина. Что это меняет?

- Изменение в сознании студентов и в образовательном процессе (термин «родной», юридический)
- Базовый термин информационного права – термин правовой, а не технический как считалось ранее.
- Практическая юриспруденция может уточнить термин в законодательстве:

Информация – сообщение в установленной ЗАКОНОМ форме. Сообщение формализованное.

Спасибо за внимание!

Юрий Волков

yuriiivolkov@yandex.ru

www.telecomlaw.ru