

EXECUTIVE SUMMARY

Section 75 of both the *Access to Information Act* and the *Privacy Act* required a Committee of Parliament to conduct a comprehensive review of the provisions and operation of both Acts. The legislation requires this comprehensive review to have commenced by July 1, 1986 and to be completed within one year. This Report by the Standing Committee on Justice and Solicitor General, which was designated by the House of Commons to carry out this task, is the outcome of that process.

During the winter of 1985-86, the Committee issued invitations to a number of government institutions, non-governmental organizations and individuals for briefs and submissions. In response, the Committee received in excess of eighty briefs. The Committee held public hearings during May and June 1986 when it heard testimony from thirty-one government institutions, groups and individuals.

The Committee's comprehensive review of the provisions and operation of the *Access to Information Act* and the *Privacy Act* is, in large measure, a pioneering experience. This Report is based upon an innovative legislative provision requiring parliamentary oversight and evaluation within a determinate time period. This unusual legislative provision has, since 1982, been included in a number of other Acts of Parliament. Hence, to a certain extent, the conduct of a comprehensive review by this Committee has blazed the trail for parliamentarians who may later be called upon to conduct similar future exercises in legislative oversight and evaluation. Consequently, the Committee has indicated in some detail in the Introduction to its Report how it conducted this comprehensive review of the *Access to Information Act* and the *Privacy Act*.

Section 24(2) of the *Access to Information Act* also required the Committee to review and report on the statutory prohibitions against disclosure contained in Schedule II of the Act. The Committee fulfilled this responsibility when, on June 19, 1986, it tabled its First Report in the House of Commons. It recommended that section 24 and Schedule II of the *Access to Information Act* be repealed but that the prohibitions already found in the *Income Tax Act*, the *Statistics Act* and the *Corporations and Labour Unions Returns Act* be added to the *Access to Information Act*.

The Committee's Report on the comprehensive review of the provisions and operation of the *Access to Information Act* and the *Privacy Act* is inspired by the principles enunciated in both Acts: that they are to enhance the right of access to government information and the protection of individual privacy enjoyed by all Canadians. This study has led the Committee to conclude that both Acts have shown major shortcomings and weaknesses. In some cases, the current legislative scheme is inadequate; in others, there are issues not addressed at all by the Acts.

The Committee's Report is structured as follows. Firstly, it addresses a number of 'threshold issues' which are common to the provisions and operation of both the *Access to Information Act* and the *Privacy Act*. Among these 'threshold issues' are the extension of the coverage of both Acts, the extension of access rights, and the status and role of Access/Privacy Coordinators. The Report then deals with exemptions and Cabinet confidences, as well as the roles of the Information Commissioner, the Privacy Commissioner and the Federal Court of Canada. Although these latter issues are common to both Acts, the Committee felt that they were sufficiently important to deserve separate treatment. The balance of the Report then deals with issues that are unique to each of the present Acts, as well as a number of issues which are beyond the reach of both pieces of legislation in their current form. In its concluding chapter, the Report addresses several resource issues and the need for future parliamentary oversight of the *Access to Information Act* and the *Privacy Act*.

The Committee deals with a number of 'threshold' issues in Chapter 2 of the Report. One of the major problems recognized by the Committee is how little the *Access to Information Act* and the *Privacy Act* are known both within government and among Canadians generally. Consequently, the