

*Government Information*

west coast and talk to people, it does not take more than half a dozen sentences before it becomes apparent what little respect and how much cynicism and distrust exist. I put it down to the fact that people have reached the stage that they do not believe a word that this government or its supporters has to say—not only this government but provincial governments and municipal governments, and not only in Canada but in the United States as well.

The trouble in Indo-China that the United States faced for many years came about as a result of the lies and deceptions practised by the Johnson administration in the Gulf of Tonkin incident when the armed forces presented a fictitious scenario, a plan which led congress to put certain economic power to declare war into the hands of the president. We see the tragic consequences of that today, and it was disclosed in the Pentagon papers. There is not very much respect for government in the United States today.

We have not reached that stage yet, Mr. Speaker, and I plead, particularly with members on the government side, that we should bear that in mind. The government should make sure that there is a greater flow of honest factual information to the people of Canada.

**Mr. S. Victor Railton (Welland):** Mr. Speaker, the hon. member for Peace River (Mr. Baldwin) made a very fine speech. He knows a great deal about this subject as he is an old parliamentarian. I enter this debate as a layman, not an expert. I know the hon. member once referred to me as having a certain amount of political virginity—

**Mr. Baldwin:** No, intellectual virginity.

**Mr. Railton:** I hope he still thinks so.

**Mr. Baldwin:** I think you have lost it since then.

**Mr. Railton:** To get to the case in point, Mr. Speaker, the hon. member for Fundy-Royal (Mr. Fairweather) has moved for the production of papers on a certain matter involving the Secretary of State (Mr. Faulkner) and the Minister of Justice (Mr. Lang). From what I can make out, the hon. member for Fundy-Royal wishes to have made public some advice which was asked of the Minister of Justice by the Secretary of State.

**Mr. Fairweather:** No; the other way around.

**Mr. Railton:** I am sorry; it was the other way around. The reply was considered by the minister as a legal letter of advice which, of course, is exactly the same as a solicitor's written advice to a client. I think it is well understood that information of this kind is protected in civilian life and, similarly, it is protected in a governmental exchange. Advice of the type given, let us all admit, is confidential; it is restricted and can only be released with the consent of the party asking or receiving, or both. In addition, there is frequently a third party.

I am not too sure why the papers were asked for, but I think it was about some group in Saskatchewan that was requesting a grant. I am not certain of the purpose of the grant. Of course, the third party in this case might very well have wished to have the correspondence made public. In a different case, however, the third party might take

[Mr. Baldwin.]

the opposite view and expressly instruct that the information be kept confidential.

The case referred to concerns a confidential legal opinion and is somewhat parallel to the advice that a doctor gives to a patient, which is strictly confidential. When a doctor obtains his licence he accepts the premise that his advice regarding a patient is privileged, confidential and secret. His case records should not be released without the consent of the patient or his legal adviser. The doctor can give a confidential opinion, if the patient agrees. He could, I suppose, give a non-technical, off-the-cuff report or opinion on the patient; but if it is inaccurate, untrue or given without consent, he could be sued.

● (1720)

This, then, is the situation we are discussing today. We are talking about the confidentiality and implicit restrictiveness of a paper which expresses a legal opinion which could involve two ministers of the Crown. Why should we have to argue the point? Surely it is clear. In private life, restricted information or legal opinions could, if made public, be used against the individual in question either through malice, sharp business or just gossip. So in government practice the making public of secret information could harm either one of the two ministers or even the group or agency which may have been the subject of the discussion in the first place. I submit that the government has taken the correct course in refusing to make public confidential information. Surely no one would deny this fact.

I have heard this subject and similar subjects discussed many times in private members' hour. This is but one of several similar occasions I have witnessed since my election to this House. If I remember correctly, the government House leader of the twenty-ninth parliament tabled as appendix B to *Hansard* of March 15, 1973, under the heading "Notices of motions for the production of papers", general principles outlining the government's position on this subject. The guidelines were covered by 16 points which all seemed reasonable. They related to internal departmental memoranda, interdepartmental confidential memos, secret information, communication with foreign powers, certain national defence information, research into future policies, preparation of government bills, and so on. Apart from dealing with national secrets which might be conveyed to an alien power, they placed emphasis on confidentiality. Surely it is obvious that when the government or a government official asks for an opinion from a private person, group or agency, that opinion or good advice might not be forthcoming unless there were an understanding that the opinion or advice was to be strictly confidential and protected.

The other day I read my own comments as recorded in *Hansard* to do with a certain notice of motion for the production of papers. I also read what I had said in the Joint Committee on Regulations and other Statutory Instruments. I refer hon. members to page 1384 of *Hansard* for April 11, 1974. The debate in question arose from the request for the production of papers to do with cabinet discussions on the Veterans Land Act. The motion was moved by the hon. member for Humber-St. George's-St. Barbe (Mr. Marshall) and seconded by the hon. member for Winnipeg North Centre (Mr. Knowles). The debate