that which gives some of us on this side pause as to whether the courts are the appropriate means of independently reviewing the question of how the exemptions or exceptions are applied.

I would like to elaborate on that point for a few moments. Why are we cautious about this? Perhaps the best way of describing my own mind at the moment would be to say that I am as yet to be convinced that the process of judicial review is an essential element in establishing an independent review process. The hon. member for Peace River and others who participated in the joint committee know that this is the point of view I expressed when I appeared before it. I certainly did not want to make up my mind on that important matter before I had a chance to study and reflect on the report which the committee will present.

● (1642)

We are cautious, first of all, because the court process tends to be both expensive and time consuming. That has been the experience in the United States. Our estimate is that the cost of applying a judicial report procedure would be $10,000 or so for each judicial test. In such a case the judicial review is likely to favour those who can afford to tackle the question that way, such as large corporations which have an interest in obtaining information and can handle the necessary cost of taking the matter to court. This has been the experience in the United States.

There is a question in the mind of the government of the appropriateness of this in relation to what parliament has decided in other areas. Parliament has established, for instance, the Human Rights Commissioner as an officer of parliament, and the Commissioner of Official Languages as an officer of parliament. In both cases these officers will be called upon to apply rights, if you wish to describe them as such, in disputed areas, and to assess whether those rights have been properly met or accepted by government. It may very well be that in the parliamentary system this kind of decision can be reviewed. Because of the separation of power in the congressional system, this is not open to the United States. In Canada we have an instrument in the offices of the Auditor General, the Commissioner of Official Languages, the Human Rights Commissioner, which would make it more appropriate to have an officer of parliament perform such a function, rather than an appeal to the courts.

There is also the question of consistency in a rather different way. If we instituted a system of judicial review there would be a variety of decisions taken by different judges on the same kind of question. I would suggest to the House it might be more useful to have an officer of parliament or some officer whose job it is to concern himself continually with this kind of question, so that decisions taken about the application of exemptions or exceptions would be reasonably consistent.

There is a fourth consideration which will weigh heavily with the government in coming to a decision, though not necessarily decisively. We must ask if this is the kind of decision it is appropriate for judges to make. I am not surprised that the hon. member for Greenwood, who is a lawyer, thinks that it is, and I am not surprised that the Canadian Bar Association thinks it is appropriate. I am not even surprised that the hon. member for Peace River may think so, although I thought his experience with the courts over the last few weeks might have tempered his conviction in this regard. I would have thought that the hon. member for Greenwood, if not the hon. member for Peace River, would have been concerned about the views of their National Anti-Poverty Association which specifically rejected the idea of a judicial review because of its cost, its delays. They recognized it would mean a process of review was not open equally to the poor and the wealthy.

I suggest we must at least consider whether this is the kind of decision it is appropriate for judges to make. We are not talking about whether a set of designed procedures have been followed in taking a decision. It is clear that courts would determine whether procedures for taking the decision had been appropriately followed. Nor are we considering an assessment of fact by a court. We are not considering the application of "black letter" law, the interpretation of what the words of a law mean or what the motivation of parliament was in placing those words in an act. What we have here is an assessment of the public interest.

We would often have a question of assessing conflicts in public interest, for instance, a conflict between the desirability of knowledge to be given an individual which would conflict, perhaps, with the right to privacy of another individual. I think this is an argument which has to be met, discussed, and perhaps refuted if that is possible. I want to cite the way in which this particular point was presented to the joint committee by the Parliamentary Press Gallery and quote from a letter on the same subject by the well known journalist, Anthony Westell. I only cite these so that I may be brief, because I think they put the argument in succinct form, and I am anxious to allow others to take part in the debate.

First of all, I should like to quote from a brief presented by the Parliamentary Press Gallery to the Standing Joint Committee on Regulations and Other Statutory Instruments. In issue No. 14 of the committee proceedings at page 14A:18 there appears the following passage:

> But we do not think it is a sound argument to say that because the ministers are not fully accountable to parliament—

Parenthetically, Mr. Speaker, I think this is the argument the Leader of the Opposition made a few moments ago.

> —they should be made accountable to judges. Such a step would further weaken parliament. The role of the Commons would be reduced because one of its functions would have been transferred to the courts—courts which in the end are responsible to no one.
>
> If it were merely a matter of giving the courts power to examine disputed documents to see if proper legal procedures had been followed in classifying them as secret, there might be no great objection. But the suggestion seems to be that the courts should also have the power to review and reverse the judgment of a minister that the publication of the information might, or would, be injurious or damaging to national security or to foreign relations, or to cabinet secrecy and so on. Such a decision would rest not on fact or interpretation of the law, but on political judgment. Ministers are elected and mandated precisely to make such judgments, and are responsible for the consequences. If judges were to be empowered to overturn the decisions of ministers, who would then be responsible