

Access to Information

country. They send us a document and in levelling with us tell us all the political consequences. They tell us how various interest groups in the country feel about the particular issue. They try to convince us to agree with them. Let us say this is the document in question, or a document prepared by our officials relating to that circumstance, commenting on it or analysing it; I think a minister is in a good position to make a decision about whether or not the release of such a document will damage relations between the two countries, perhaps better than a judge. In fact, I would have to say that I think a minister could make that decision better than a judge. I also think the minister should take the responsibility for the decision in the same way the judge would.

Suppose we had the test which some members opposite argue should be in place, and the judge decides in that hypothetical case that he does not think the release of the document would damage relations between Canada and another country and he orders its release. Suppose the release of that document does damage these relations. Who is responsible for that? How can the situation be rectified? This is why I resisted the approach which would allow a judge to substitute his decision for that of a minister when I appeared before the joint committee on behalf of the government.

With respect to the question of reasonableness, there is a provision for judicial review. That review is directed to the question of how reasonable the minister was in making the decision he made. So the special kind of political decisions which ministers are supposed to make will remain with the minister, while the legal question of whether the decision was reasonable or whether the information was within the prescribed category is left with the court. I view this measure as great progress. As I indicated, it will assist me in making decisions which will be perceived to be well founded and more acceptable to those who will be affected by them. I very much welcome this new legislation.

I would like to point out two other excellent features of this legislation which deserve a tremendous amount of recognition and support. One is that an auditing process will continue within the Government of Canada in which officials will have access to all documents within government. Independent officials, on their own initiative, will be able to have access without their requests being triggered by public requests for information, although that may also happen. These officials can come and look through our files which we claim are police files. They can make sure that there are not documents being put in there to receive the benefit of the exception which applies to them. I think that is a very valuable feature of this legislation from the citizen's viewpoint. We will not be able to use special banks for police information and other secure information as a way of hiding things which we want to keep citizens from finding out. This change is a very valuable part of the legislation.

● (1630)

The other change in this legislation which is very valuable is that no matter how protected a document is or how justified

the government may be on valid grounds for withholding the document, if it discloses any wrongdoing then it is the responsibility of the courts or the commissioner to bring that wrongdoing to the attention of the proper authorities. So not only does this legislation provide for the giving of information to citizens, but even in instances where it is determined that the withholding of information is justified if wrongdoing is revealed, it cannot be withheld under the security classification which applies to the document as a whole.

Finally, I would like to say a word in support of the passing of section 41 which in the past has permitted a minister, by fiat in effect, to withhold any document or information from a court in any proceeding. This provision is being abandoned by the government. It is perhaps the last vestige of the ancient monarchical tradition where it was not the citizens who gave but the monarch who gave. The removal of this provision is an important step forward.

I am looking forward to living with the requirement of having to defend a decision in response to a request or submission why a particular piece of information or document should be withheld and to leaving the decision with the courts. I do not know how quickly this bill will be enacted, but I know hon. members will have many ideas for improving the legislation. The minister indicated his willingness to hear good ideas and suggestions for improvement, that he is not wedded to all the language or all the ideas in the legislation.

I do hope that, in an attempt to make something perfect, we do not become involved in arguments over relatively trivial matters and thereby postpone the enactment of this legislation. I doubt if any hon. member can stand up and say that as it is written this bill should not be passed, that it does not represent important progress or that it is not worth having. On the contrary, I believe that all of us welcome this legislation. Recognizing the priorities and the business to which this Parliament ought to turn its attention, I hope hon. members will, at a certain point, settle for something which, I submit, is very good and put into effect this legislation which, to end as I began, the Solicitor General of Canada would very much welcome.

Hon. Walter Baker (Nepean-Carleton): Mr. Speaker, I would like to begin by commenting on one remark made by the Solicitor General (Mr. Kaplan) just a few minutes ago, that no member of this House could say that this bill should not be passed. I agree with the Solicitor General. I do not think that any member of the House would say that this bill should not be passed. However, as some hon. members would say, when the bill is finally dealt with, I hope it is in considerably different form from what it is today in terms of the exemptions, the operation of the committee which is proposed and in other areas.

The fact that House leaders of all three parties have agreed that Bill C-43 is of such importance that the bill should pass in one day and that we would eliminate private members' hour for one day in order that the matter may be considered is an indication of the importance which we attach to this piece of