

*Access to Information*

Parliament. We believe that this is an important step forward. We will be calling upon the government to show flexibility before the committee in listening to Canadians and be prepared to make improvements to this legislation so that we will ensure once and for all that the right of Canadians to control information about themselves and about how government is affecting their lives and spending their money belongs to them and should not be under the sole jurisdiction of the state.

**Mr. Robert Daudlin (Essex-Kent):** Mr. Speaker, my intervention in this matter will be short. I trust, as a matter of fact I am relatively certain, that I will be able to put those particular points of view across in the 20 minutes allotted to me and thus will be able to demonstrate, as have colleagues on both sides of the House, that the particular agreement which we have been able to reach in this debate to reduce our speeches to 20 minutes as opposed to 40 minutes is an exceptionally good idea, a great step forward, indeed almost a great leap forward, as the hon. member for Nepean-Carleton (Mr. Baker) originally described the bill, a description which he later retracted.

At least the method of dealing with this bill is a great leap forward, and I am sure even he agrees with me on that. I hope that we will all be able to agree from time to time, and I hope lots of times, on dealing with other debates in the same manner. It is an enlightened approach which we have taken and this is something on which we should be complimenting all our House leaders and for which we should be pressing our caucuses.

**Mr. Baker (Nepean-Carleton):** It all depends on the substance of the legislation.

**Mr. Daudlin:** The hon. member for Wellington-Dufferin-Simcoe (Mr. Beatty) spoke of onuses of proof and the fact that in his opinion the onus of proof should be on the government with respect to those items which they wanted not to release to the public view. On its face I have to say that I agree with the hon. member. I think that he is putting forward a wise position, but I am a little concerned with respect to some of the presumptions which appear to underlie his concept in the way in which he put it forward.

I have sat in this chamber since 1974 and many of my colleagues have been here even longer than that. Those who have sat on the government benches have come to the realization that when colleagues from the other side of the House speak of what people's rights are, they seem somehow to make the distinction between a government member, whom they judge does not speak for the people, and themselves, whom they judge do speak for the people.

Perhaps I have an old-fashioned idea of what this place should be, but I believe the presumption should be that all members in this place, including hon. members who have been elevated to the ministry, speak for the people, and that the opposition has no particular claim to speak for the people over that which we are able to exercise from this side of the House and on these benches. So long as we can all agree on that

presumption, I concur with the hon. member for Wellington-Dufferin-Simcoe that the onus be on the party presuming to withhold the documents from public view.

However, I do not share his view that the method to be used in determining whether a document is being fairly or unfairly held is one that should be given over to the courts. I happen to believe that the method which has been struck upon in Bill C-43 is the appropriate and proper method because, in my view, it takes from the courts a job which I am sure any judicial appointee in this country would not want to have. It seems to me, from my practice of law and from what I have heard in the Hosue, that the judges on our benches are jealously protecting the concept of the division and the distinction between the judiciary and the legislative branch. If we are going to put the judges of this land in the position of being asked to make political decisions—because that is exactly what we would be asking them to do—then how can they stand up and claim to be separate from this place?

The Solicitor General (Mr. Kaplan) earlier spoke of the particular problem in which any judge would find himself in terms of having overturned a political decision on some item relating to external affairs and relations between countries and ourselves, a political decision made on behalf of the minister. In my view, the same sort of thing applies to any other minister in the government. Once a political decision is taken, it is reasonable and fair that a commissioner in the first instance, and a court thereafter, make the determination as to whether or not the ministerial discretion or the ministerial decision-making power was exercised in a fair and reasonable manner. If it were not, I challenge any member of the House to find in himself or in any minister of the Crown sufficient political clout to withstand the kind of public pressure, and political pressure from this House itself, which would be brought to bear on a person who challenged the finding of, first, the commissioner and then the court that the decision to withhold a document was unreasonable. I cannot believe that anyone would withstand that kind of pressure, and I think that that is the kind of pressure that is built into this bill. It puts the political decision-making power squarely where it belongs, namely, on the cabinet, and it withholds it from the judges of our land who, I am satisfied, would be running as fast as they could from that kind of power. I am satisfied they do not want it.

In terms of the indeces of private citizens which currently exist in Canada, I was interested as well in the comments made by the hon. member for Wellington-Dufferin-Simcoe. I share with him many of the concerns which he expressed in terms of the ability of an individual citizen to have access to those banks of information which are continuously being increased on us all. We all want to have access to information, if for no other reason than to correct the faults which many of us find are there. I cannot say specifically that I heard that hon. member complain about funds being used by the government to publicize a particular act—I would not say that without having first researched it, something which I have not had a chance to do—but it is passing strange to find that at