

Access to Information

We want to ensure that the possible abuse of social insurance numbers can be dealt with adequately. There are a number of other concerns which we will be outlining in committee.

As I said before, we welcome the principle in this important bill. It is long overdue. But we must go beyond the bill because, if we are to be successful in ensuring full and comprehensive access to information and protection of privacy in Canadian society, ultimately it will require the full co-operation of those officials who are charged with the implementation of these provisions. It will be the next great step in this process.

I conclude by urging the government to move quickly on this bill and to bring it speedily to committee where we will propose a number of substantial amendments. I hope we will have a bill of which all Canadians can be proud.

Some hon. Members: Hear, hear!

• (1620)

Hon. Bob Kaplan (Solicitor General): Mr. Speaker, I am also very glad to be able to participate in this debate. Because of my time commitments I find that I cannot stay as long as I would like or make as many of the points I would wish. But I cannot resist taking a few moments at the beginning of my remarks to congratulate my colleague, the Secretary of State (Mr. Fox), for this major piece of legislation. I have no doubt that this legislation will stand as the major achievement of this Parliament, or certainly one of them, apart from the Charter of Rights and Freedoms about which I will speak in a moment.

It has not been easy to bring about this legislation, since one is dealing with a tradition where secrecy tended to be over-used. I am glad that from the beginning of this government's term a decision was made that the policy of this legislation would be complied with and that ministers have been expected to operate as if this law was in force. It is acknowledged by the government and those members of the previous Liberal government that there will be less withholding of information from the public than before. For the first time there will be the right, rather than the discretion which existed in the past on the part of the government, to information.

I must say that as Solicitor General I welcome this legislation as much as any other minister, even though in my own ministry there are many matters which will be covered by the confidentiality provisions of the measure which will not be made public. That will continue. In spite of that, there will be, in effect, a second opinion with regard to the decisions the Solicitor General must make to withhold information on the legitimate grounds which are provided in the act. Under the present system, when I stand in my place, write to a citizen or answer a reporter and say that I cannot comment on something or cannot release information, my decision cannot be challenged. But it can be challenged when this legislation is in place.

I think it is great progress that every single piece of paper, every document which belongs to the Government of Canada—to the people of Canada—will be subject to review. All of

these documents will not be released; there are exemptions, exceptions and tests provided for in the act. But a minister, such as myself, who must withhold information will see that information go through two stages of review, the commissioner and the courts, to determine by the tests provided for in the legislation whether withholding is justified. I say candidly that I welcome that. I am looking forward to being able to tell a citizen, "I do not think I can give you this information" or "I cannot tell you why this decision was made about you", and then tell them that they do not have to take my word for it. Under this legislation I will be able to say, "You are entitled to go to the Information Commissioner and you are entitled to appeal to the courts and have the decision reviewed." As I say, I take very great comfort from that.

I do not know if hon. members are aware, but as Solicitor General of Canada I receive 65 per cent of all requests made to the government concerning information about an individual. In most cases, the overwhelming majority, information can be provided straight out. But from the time this legislation is enacted, people would not have to take my word for it.

The hon. member for Burnaby (Mr. Robinson) referred to the nature of judicial review. It is that subject about which I particularly wanted to speak. The two of us had an exchange, in which other members participated, before the joint committee. We were dealing with the matter of whether our charter of rights and freedoms ought to contain the absolute right for a court to review a decision made by a minister to withhold information and for the court to substitute its decision for the decision made by a minister.

That is not the test provided for in some of the very fundamental sections dealing with international relations and defence. There is judicial review provided for in those areas but it takes the following form, as I understand it. The court will look at the decision made by the minister. The information which the minister has decided to withhold will be considered. The court will ask, not what it would have done if it had been the minister, but whether the minister's decision is a reasonable one and does the material fit within the class provided for in the statute. I wish to argue that the test which the government has put forward in this area is a very much better one than a completely open review in which a court would have the right to substitute its judgment and decide that the document in question should be made public.

I think the government's test is a better one, which is evident when one considers the consequences of a court substituting, in a particular case, its decision for that of a minister. As I understand it, this is what the opposition will be saying: The judge will say that the minister may have acted reasonably but he does not agree with that decision. Therefore, in spite of the fact that the minister was acting reasonably, that particular piece of information should be made public.

Let us take a hypothetical case. Suppose we are talking about a document which, if disclosed, would seriously damage relations between Canada and a foreign country. For example, say the foreign country confided in us, or sought our advice or support for some matter of great importance to the foreign