

# CHAPTER 1

## INTRODUCTION

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The entrenchment of fundamental rights and liberties in the *Canadian Charter of Rights and Freedoms* has been widely heralded and has had an important impact on government and the courts. Of similar significance was the enactment of the *Access to Information Act* and the *Privacy Act* by Parliament in 1982.<sup>1</sup> These laws have given Canadians potential instruments with which to strengthen Canadian democracy. The Charter and the two Acts represent significant limits on bureaucracy and have provided a firm anchor to individual rights.

A unique feature of the *Access to Information Act* and the *Privacy Act* is that they both provide for a parliamentary evaluation of their provisions and operation. That examination is the subject of this Report.

### Committee's Mandate and Approach to the Task

Section 75 of both the *Access to Information Act* and the *Privacy Act* provide that a Committee of Parliament shall conduct a comprehensive review of the provisions and operation of these two pieces of legislation. Both Acts require that the comprehensive review commence within three years of their proclamation, that is by July 1, 1986, and that the task be completed within one year. By Order of Reference dated November 19, 1984, the House of Commons conferred the duty of effecting this comprehensive review upon the Standing Committee on Justice and Solicitor General.

Section 24(2) of the *Access to Information Act* required the Committee designated under section 75 of that Act to conduct the comprehensive review of its provisions and operation, that is this Committee, to review and report upon the statutory prohibitions against disclosure contained in Schedule II thereof. This review was to be completed by July 1, 1986. In its First Report, tabled in the House of Commons on June 19, 1986, the Committee recommended that section 24 and Schedule II of the *Access to Information Act* be repealed, but that the prohibitions already found in the *Income Tax Act*, the *Statistics Act* and the *Corporations and Labour Unions Returns Act* be added to the Act. (See Appendix B.)

During the Summer and Fall of 1985, the Committee formulated its approach to the comprehensive review. An exhaustive questionnaire setting out in detail the issues of concern to the Committee about each Act was developed by its staff. In early December 1985, the Committee issued a press release describing the manner in which it would be conducting the comprehensive review and the projected schedule it would be following. Nearly two hundred letters requesting written submissions as part of the review were sent out by the Committee to a large variety of government institutions, non-governmental organizations and individuals. These invitations were accompanied by questionnaires and a list of issues indicating what the Committee hoped would be addressed by submissions to it. In response to these invitations, we received in excess of eighty Briefs as well as other forms of submissions, all of which were carefully analyzed by the Committee. (See Appendix D for a list of submissions received.)

At the same time as the Committee was undertaking these early stages of its study, the Department of Justice and the Treasury Board Secretariat were also conducting an extensive examination of government institutions' experience with the *Access to Information Act* and the *Privacy Act* during the first three years of operation. Much of what was raised by the Committee in its questionnaires and list of issues was also addressed by this examination. The Committee closely monitored this internal review by government, but at an arm's-length distance. Much of the documentation generated by this internal government study of both Acts has been examined with a