

Private Members' Business

7. Once the government has decided to publish a poll result, that poll is no longer covered under the Access to Information Act. This means recipients could lose the right to complain, all the way to the federal court, about the polling results received after late receipts and publishing delays.

There is much more in this report, but we all get the point of the problems with this new legislation. The change in Treasury Board guidelines was a finesse by the government, not an honest attempt to address the existing problem. This is unacceptable and more concrete steps have to be taken.

• (1115)

I do not claim Bill C-309 by itself can fix the problems of secretive government. It cannot and no one would say it could. However, if this legislation were passed it would be a step in the right direction.

Parliament can talk about open government until the cows come home but unless we are willing to legislate change it means nothing more than words. It is time to legislate open government.

In the sincere hope that members will have the courage to act, I ask for unanimous consent to make C-309 a votable item. If this is done all members of Parliament will have a chance to get on the record on this very important issue.

The Acting Speaker (Mr. Kilger): Does the hon. member have the unanimous consent of the House?

Some hon. members: No.

Ms. Susan Whelan (Parliamentary Secretary to Minister of National Revenue, Lib.): Mr. Speaker, I rise to commend the hon. member for this proposal to extend the application of the Access to Information Act.

I am a firm believer that open government is essential to the preservation of the respect which members of the public give us as politicians and to the trust they place in their government. The Liberal Party is committed to the principle of open government.

I am not sure, however, this amendment is necessary. It is my understanding the act already provides for access to public opinion polls. Section 4 of the act provides that everyone has a right of access to any record under a government institution. In so far as opinion polls constitute such records, they are covered by the act. If specific poll results are not disclosed to the public it is because in specific circumstances a legitimate interest that competes with presumption of access is invoked. It should be noted the act performs a careful and complex balancing between a variety of interests. I am concerned that amending the act to address a specific and limited aspect of the act would disturb the various balances within the act.

In 1992 the trial division of the federal court pronounced on the question of release of public opinion research in the case of Information Commissioner v. Prime Minister. That case dealt with public opinion polls commissioned during previous consti-

tutional negotiations. The decision of the federal court trial division of November 19, 1992 provides guidance on disclosure of such information.

In addition to section 4 of the act, the Treasury Board secretariat has issued guidelines for federal institutions on the release of public opinion polls. The Treasury Board communications policy amended last July provides that first, government institutions must make every effort to disclose results outside the formal resolution process prescribed by the Access to Information Act of public opinion research.

Second, in the spirit of the Access to Information Act, institutions are encouraged to make the final report of public opinion research available within 30 days of receipt and should resort to the 90-day allowance only if constrained by publishing requirements.

Third, in those cases in which a minister elects not to disclose the final report in response to an access to information request, the minister must send a letter to the information commissioner informing the information commissioner of his or her decision inciting the provision of the Access to Information Act that the minister has exercised. A copy of the letter will be sent to the Treasury Board for purposes of monitoring implementation of this policy.

With section 4 of the act interpreted by a recent court case dealing with opinion polls, and with a new government policy which guides government institutions on the disclosure of public opinion polls, it is not at all clear to me that there is a present and pressing problem with respect to the release of public opinion research that justifies an ad hoc amendment.

Another reason I would not support Bill C-309 is that the Minister of Justice has announced his intention to reform the Access to Information Act. I understand a review of how public opinion polls are disclosed or not disclosed to the public will be part of that review.

I trust the Minister of Justice will reform the act in providing for more open government, including greater access to polling information. I am concerned that Bill C-309 would amend the act in an ad hoc fashion.

It has been about 12 years since the act was first passed. A parliamentary committee and the information commissioner have both made extensive recommendations for reform. I believe it is time for a fundamental review that would look at all aspects of the act.

• (1120)

In addition I have concerns with specific details in this proposal. The requirement that every public opinion research contract be reported to the minister and to the Speaker of the House of Commons and that reports be tabled in Parliament or with the information commissioner and published in the *Canada Gazette* seems like overkill.