

- 2.2 The Committee further recommends that the Treasury Board undertake a public education campaign in conjunction with the proclamation of any amendments to the *Access to Information Act* and the *Privacy Act* and also consider printing notices about individual rights under both the *Access to Information Act* and the *Privacy Act* to be included in standard government mailings.

Coverage of Federal Government Institutions, Administrative Tribunals and Parliament

At present, the *Access to Information Act* and the *Privacy Act* apply only to those "government institutions" listed in a Schedule to the legislation. Departments and Ministries of State are listed, as are certain other government agencies. As a result, it is difficult for applicants without an up-to-date copy of the Schedules to know precisely what parts of the Government of Canada are subject to the legislation. This is a cumbersome drafting device causing continuing work and frustration for both the Treasury Board and the Department of Justice. The need to amend the Schedules on a regular basis to reflect changes in government organization is an unproductive and wasteful activity. The Committee prefers to design a system in which all government institutions are covered by the respective statutes.³

Neither Act contains a general definition of "government institution"; as a result, the two Acts do not apply automatically to newly-created institutions. Whenever a new agency is created, it must be added to the Acts by regulation. Sometimes an agency will be forgotten.

What government institutions are currently excluded from the ambit of the *Access to Information Act* and *Privacy Act*? The Ontario Commission on Freedom of Information and Individual Privacy (the Williams Commission) recommended in its 1980 Report that freedom of information legislation in that province should apply "to those public institutions normally perceived by the public to be part of the institutional machinery of the ... government." But in a modern state like Canada, what does the term "government" include? In addition to departments, agencies, commissions and Crown corporations, should the Acts also apply to agricultural marketing boards, the House of Commons, the Senate, the Library of Parliament, and the offices which are directly accountable to Parliament, such as the Chief Electoral Officer, the Official Languages Commissioner, the Auditor-General, the Information Commissioner, and the Privacy Commissioner?

The Committee agrees with the Ontario Commission on Freedom of Information and Individual Privacy that freedom of information and privacy legislation should apply to those public institutions normally perceived by the public to be part of the institutional machinery of government.⁴ It has concluded that two alternative criteria should be employed to identify the institutions of the federal government which should be subject to the *Access to Information Act* and the *Privacy Act*. Firstly, if public institutions are exclusively financed out of the Consolidated Revenue Fund, they should be covered. Secondly, for agencies which are not financed exclusively in this way, but can raise funds through public borrowing, the major determinant should be the degree of government control. (Crown corporations are covered in a separate recommendation.)

The Committee recognizes that certain institutions that are perceived by the public to be part of the federal government are in fact joint ventures with provincial governments. Examples include the Canadian Egg Marketing Agency, the Canadian Dairy Marketing Agency, and the Canadian Broiler Chicken Marketing Agency. The Committee is aware that extending coverage of the *Access to Information Act* and the *Privacy Act* to such organizations may require consultation with the provinces but believes that the public interest will be best served by the successful conclusion of such negotiations in order to ensure coverage by the *Privacy Act*.

The Committee believes that the *Privacy Act* should extend to all federal courts and administrative tribunals, since officers and employees of such institutions should enjoy the same rights to protect their privacy as are enjoyed by other federal officers and employees. However, the