be made available to members, and therefore to the public?

To someone who is unfamiliar with the workings of parliament, it must seem redundant and somewhat suspect for members to be debating the disclosure of a certain document that has already been disclosed. However, I do not feel it is redundant, nor do I suspect the motives of either the hon. member for Fundy-Royal, who served with distinction as joint chairman of the Standing Committee on Regulations and other Statutory Instruments which first examined the guidelines, or those of the Minister of Justice (Mr. Lang), for the question before us is of fundamental importance. It deals with rights of members to have access to information; the well-established practice of including the opinion of law officers of the Crown on a question of government policy in the class of confidential documents; and the possibility of establishing a precedent in the compulsory disclosure of certain information, the effects of which on the performance of the government, to say the least, would be uncertain.

It is this latter point about which I am most concerned. My hon. friend, the Parliamentary Secretary to the Minister of Justice (Mr. Marceau), has pointed out that, just because in the case before us some or all of the documents containing the legal opinion may have become available to the media, this is no reason why we should abandon the tradition that such confidential documents should not be disclosed. It has been shown where this tradition has been withheld in a number of rulings.

Even if it could be demonstrated that the disclosure of the particular letters in question does not create any of the negative effects which the guidelines were established to prevent, it would still be unwise to produce the document. For this document clearly is a legal advice provided for the use of the government and, as such, falls into the first criterion for exempting government papers from production. To produce this document would be to reject that particular criterion and the long-established and accepted practice on this point.

Nor can it be argued that because the disclosure of the letter really did not disrupt the functioning of the government, then the category under which it was restricted should be abolished. This would be like someone saying Russian roulette is a safe pastime because they once struck upon an empty chamber while playing it. It is not possible to allow for the disclosure of some legal opinion and withholding other such opinion. It is an all or nothing proposition, or may as well be. If a person giving legal advice has to worry about whether this advice will be made public, then the value of the advice will be questionable at best.

The important point at question is not the contents of a document as such, but rather the nature of those contents. I have said that the motion for the production of papers before us is unique in that we know the contents of the particular letter in question. This information actually acts as more of a hindrance than help in that it distracts us from the real point. In other motions of this kind we do not know the actual contents of the government information requested, and must debate them solely on the nature of the contents of the requested information.

[Mr. Robinson.]

If the guidelines were based only on the contents of government papers or documents as opposed to the nature of the contents, then they would be much less restrictive and permit far greater access to governmental information. This is because much of what is considered confidential could be released, and by itself would not cause too much disruption to the operation of government. The document which the member is requesting is an example, as are a number of other leaks of different kinds which have taken place in recent years. However, if these leaks were to occur on a large scale, or compulsory disclosure of documents were based on their individual content, then I feel the cumulative effect on the effective functioning of government would be disastrous.

● (1750)

This debate reflects the growing concern about public access to governmental information and the complications and contradictions that have arisen in this regard in the past number of years. From the earliest times governments of all types have been anxious to preserve secrecy for matters affecting the safety or tactical advantages of the state. However, dangers to the state have changed in character and become more complex, and have come to seem internal as well as external.

The activities of government increasingly affect all the affairs of the citizen. Its economic discussions have come to be considered no less vital to the basis of the life of the community than decisions on defence. Advances in science have both peacetime and military applications. Rapid changes in society, and the increased influence of centralized institutions further complicate the issue. More and more information about the private affairs of citizens comes into the possession of the government, and there is a feeling that the government should safeguard the confidences of the citizen almost as strictly as it guards information of use to the enemy.

On the other hand, these developments have increased the need for more effective, democratic control. This means more information to enable citizens to make rational decisions about matters affecting their lives. Progress in education and in technology has increased the possibility of circulating information on a wide scale and in considerable detail.

A report presented to the British parliament by a committee chaired by Lord Franks stated that:

> We are faced... with an increased area in which consideration of secrecy may arise, and at the same time with an increased need for the diffusion of information together with the technical capacity to supply this need.

Similarly, Professor Donald C. Rowat, of Carleton University, tells us:

> There will always be the problem of drawing the line between the government's need to deliberate confidentially and the public's need of information. It is simply a question of emphasis.

It is exactly this question of emphasis, and the problem of drawing the line between what documents should be disclosed and which should not, that we are discussing today. The hon. member for Fundy-Royal stated clearly that the issue was not abortion and that the motion had really little to do with the copy of a letter, but rather the