

I suspect that the two bills already rejected by this House contained the same wording as the bill before us today. I read the bill from a somewhat jaundiced point of view. I wish the hon. member had consulted an attorney about the manner in which it should be drawn. If he had done this it would probably have been suggested that he scrap the bill and incorporate the explanatory note which makes more sense and, I think, says what the hon. member wished to say. This being a bilingual country, I would say:

[*Translation*]

This bill is in aid of the public's right to know in what manner a government is administering the public duties entrusted and delegated to it by the people: save for exceptions that are in the public interest, the bill enacts Bentham's basic parliamentary Rule that public affairs must be conducted publicly.

[*English*]

I think that clearly says what the hon. member intended. As I read the bill, it seems to say that this is an act to better assure the public's right to freedom of access to public documents and information about government administration. If I may paraphrase, clause 1 of the bill says that the government shall make its records and information concerning its doings available to any person, at his request, in a reasonable manner and time. If the hon. member had stopped there, the bill might have been all right. As one who practised criminal law, I know that when we look at the Criminal Code we always try to find defences in the section itself before we get to the facts: we always go to the legislation first. So when I look at clause 2, the exceptions mentioned by the hon. member take away any teeth in clause 1. Not only do we have one exception, but he has in effect four exceptions to that which he is suggesting in clause 1. One could almost take judicial notice of the first exception:

(a) affecting national security;

The second exception is:

(b) concerning matters that are exempted by statute from disclosure;

This could surely be achieved by statutory legislation. The next exception is:

(c) concerning trade secrets, and commercial or financial matters of a privileged or confidential nature, obtained from private persons;

Clause 2 (d) is even more all-powerful in defeating clause 1, because it says:

(d) concerning any matter of private interest to the degree that the right to personal privacy excludes the public interest.

Mr. Speaker, armed with that piece of legislation, if an officer of the Crown could not bring himself within clause 2(a) (b) or (c) in response to a request for information, he could surely argue that under clause 2 (d) he has hardly to reveal any information to an individual.

Mr. Barnett: Mr. Speaker, would the hon. member permit a question?

Mr. Cullen: I hope it is a question about the Sir John A. Macdonald bill. I am better prepared for that.

Mr. Barnett: Mr. Speaker, has the hon. member noted that the bill under discussion in regard to which he has enumerated these four exceptions, makes no reference to

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any exception in the area sometimes referred to in this House as the prerogative of the Crown to withhold information at their discretion? It seems to me that the hon. member is losing sight of the distinction between private persons and the public person represented by the Crown.

Mr. Cullen: Mr. Speaker, I had almost eight years of training at university and law school and 12 years of practice in the law, and I think I recognize the distinction. The hon. member has pointed out the weakness that occurs in clause 2(d). Ministers of the Crown have the intelligence to decide what is and what is not in the public interest. The hon. member has a point, but I think clause 2(d) defeats the purpose of the bill. Without it the bill might have been a better piece of legislation. It might have been able to bring forth from the cabinet the kind of information that the hon. member is seeking to have disclosed.

For that reason I would have to vote against the bill, Mr. Speaker, primarily because it is not consistent. I do not think it is particularly well drawn and, as I said, the explanatory note covers the ground much better. Certainly clause 1 covers the ground much better, without the addition of clause 2. This one is typical of some of the bills that are presented by the opposition. It seems to be saying that we ought to be doing something which in fact is being done. The information that members want is available. It is available through the oral question period, through written questions on the Order Paper and through notices of motions for the production of papers. I think I am right in saying that there are at least 154 requests for information on the Order Paper.

• (4:40 p.m.)

Members have access to ministers. These men are not hidden in ivory towers. Ministers are accessible and I have never found it difficult to obtain answers. Sometimes hon. members are confused because the answer is no and does not agree with their point of view. Perhaps that is why this legislation has been brought forward, because it tends to indicate to the public that something suspicious is taking place, which of course is not the case. The explanatory note and clause 1 have merit. However, I shall be forced to vote against the measure, primarily because clause 2 takes away from the bill whatever merit it may have contained.

Mr. Mather: Mr. Speaker, before the hon. member resumes his seat, may I ask him a question? I believe I am right in thinking that he favours the principle of the bill but he has difficulty with its details. If that is the case, does he not favour sending the subject matter of the bill to a committee, say the Standing Committee on Justice and Legal Affairs, where he and others could improve it?

Mr. Cullen: Mr. Speaker, I agree with the principle of the bill, but I do not think the bill is even necessary. It seems to me that we have access to information now. Surely clause 2 (a), (b), (c) and (d) add nothing to the circumstances that now exist. If you want information, it is available, with the exception of the matters set out by the hon. member in clause 2 of the bill.