

*Access to Administrative Documents*

attack. Surely that would make for better government no matter which party sat on this side of the House.

However, this is not such a simple matter that we can set it out in a bill such as the one before us. While this matter is being aired now, nevertheless I would be loth to see the bill passed in this form without a great deal of in-depth consideration being given to the whole question. I know I am not supposed to refer to future legislation, but the hon. member for Peace River (Mr. Baldwin) said he had something more exacting in mind that he might bring out at a later time. I think a great deal more should be done in the private sector. I think the problem is not so much misinformation as fear of misinformation; therefore action in this direction may be beneficial.

I do not think I need debate issues that we cannot act upon here, such as credit bureaux, and so on. We live in an age when our privacy is seriously hampered by all sorts of mechanical devices such as personnel agencies, detective agencies and credit bureaux which can find out about us and make reports. Sometimes we fear them much more than is warranted. If action such as that proposed in this bill were taken by the federal government, followed through provincially and legislation passed at the appropriate levels to affect business as well, we could make public information to which people have a right especially when it involves themselves. This would be beneficial to us all. However, I do make the reservation that it would have to be well thought out and after it had received thorough debate.

• (1750)

In conclusion, although I am aware of the exercise we go through in private members' hour, I nevertheless most sincerely appreciate the principle put forward in the hon. member's bill, even though I have expressed serious reservations about it. When he finds support for it from all sides of the House, moving to a point in time where it has been thought out and fully discussed, then I think we may well see such legislation before the House.

[*Translation*]

**Mr. Raynald Guay (Parliamentary Secretary to Minister of Justice):** Mr. Speaker, Canada has inherited democratic parliamentary traditions which she cherishes and, at the same time, administrative secrecy which constitutes one of the major barriers between the citizen and the federal government and to a great extent conditions the spirit in which the latter discharges its information duties. Canadians scholars are aware of this basic conflict which exists between administrative secrecy and the need for information services in participatory democracy.

At the top of our political system decisions are made, within the cabinet, by ministers who have taken the oath of office to keep as absolute secrets all matters considered, discussed in and disposed of in the Privy Council.

The press, the public, the opposition parties, even the ordinary members of Parliament, often find they are unable to get some information which affects the administration of the country.

No legislation in Canada, except the Official Secrets Act, prohibits or authorizes access to official files. An order-in-council is being prepared to establish procedures

[Mr. Fleming.]

permitting access to those files. On May 1, 1969, the Prime Minister of Canada (Mr. Trudeau) announced that our country was also getting ready to initiate a policy to make available for research and other uses as many records of the federal government prior to July 1, 1939 as national interest will allow. The Prime Minister further indicated that this new policy shows the government's desire to stimulate interest and participation by Canadians generally in the affairs of the State. It was stated in the House of Commons that this was a pretty poor measure and it was suggested outside that it did not go far enough. The Royal Commission on National Security has proposed to remind departments and officials on a continuing basis of the advisability of lowering the security classification of documents. However, it has also added that the minister concerned must be allowed to exercise discretion as far as possible.

For instance, access to public documents, either directly or through government publications, has always been easier in Canada and in the United States than in most other western democracies.

Sometime in June 1967, in a memorandum on the application of the act on public disclosure, the Attorney-General of the United States said, and I quote:

... public disclosure of information must be the rule and not the exception, all citizens have equal rights of access to information and the burden of justifying the secret nature of a document rest with the government and not the claimant.

For the first time the new act will provide judicial procedures to enable the citizen who feels wronged to lodge a complaint against the agency that refuses, without cause, to give him access to its documents. Federal courts have the right to punish, for disobedience, the heads of official agencies.

With regard to public access to state documents, the French system seems even more restrictive than the others we studied, including that in Canada. Archives cease to be confidential or secret the very day a minister authorizes the publication of documents on a given period. In this regard, there is no automatic rule in France comparable to the 30-year deadline set in the United States and in Great Britain, and which has also applied here for a few years.

In Sweden, for almost 200 years now, state documents are recognized as public unless they have been declared restricted judicially. The Swedish system and its administration are worthy of our admiration but they are not necessarily easy to adopt in Canada. The Swedish type of responsible government does not resemble ours much. Because of that, it might be difficult to transplant here in Canada the modes of access to public documents in use in Sweden.

In Great Britain, where our parliamentary system was born, the tradition of the administrative secret was contested by academics and was the object of a committee inquiry into the civil service.

Canada is lagging behind other countries, namely Great Britain, the United States and especially Sweden, with regard to allowing access to administrative documents to mere citizens, members of parliament and journalists. But the American experience has shown that there is something else besides legislating. Law can be evaded and its