

*Statutory Instruments*

given when officials are confident that their advice will not be revealed. Otherwise an official would say, "What is it you want me to tell you, because I cannot be at odds with my political superior; if I were I would be in politics?"

**Mr. Jim Balfour (Regina East):** Mr. Speaker, I too am pleased to have the opportunity to speak in support of the motion and to offer some observations with regard to the need for legislation with respect to the principle of freedom of information.

I begin with the principle that all government documents, records, and other forms of information should be accessible to the public unless the release of such information is withheld for a good and specific reason supported by provision for a judicial review of any withholding decision made by the government.

I believe it is axiomatic that no government will willingly surrender information that might embarrass it, inconvenience it, or simply make its life more complicated. To expect otherwise would be naive. When governments demonstrate reluctance to provide public access to information they must expect grave suspicion that their motives are impure. It is also true to say that even the most ardent proponent of open government action agrees that there are situations in which official information can properly and legitimately be withheld from the public in order to protect either individual privacy or the national interest. What we are confronted with, therefore, is the need to strike a balance.

While the withholding of information can sometimes be justified, the indisputable fact remains that the people cannot govern themselves in a democracy if agencies of government withhold access to information concerning issues on which the public is expected to form a view. Furthermore, Mr. Speaker, once secrecy is legitimized in any area there is a natural tendency for it to spread—secrecy provides an opportunity to conceal mistakes or misbehaviour, to permit officials to shape policy without outside consultation, to permit elected officeholders to avoid accountability for their actions.

Others have spoken, or will speak, of the rather feeble attempts of the government to satisfy demands for freedom of information. I propose to focus my remarks on the steps taken by governments in other countries, notably Sweden and the United States, to provide the citizens of those countries with ready access to government records.

The Swedish system of open information dates back to 1766, and since 1809 the Swedish government has guaranteed the citizen a right of access to government documents. At the present time the freedom of the press act spells this out. Denial of access can only be justified by reference to an omnibus secrecy law which enumerates exceptions on the basis of criteria established in the constitution. And everyone in Sweden has the right to see all official papers not made secret by the 1937 secrecy law.

The procedure for exercise of this right is very simple: the claimant simply demands the paper or file he wishes to see from the civil servant who has it. At his peril the civil servant must decide whether the document is public or whether the paper, or part of it, is secret. He must then make available what is not secret.

[Mr. Sharp.]

When an official refuses delivery, the claimant may appeal to a superior authority. If it is not proven that there is a constitutionally supported basis for denial of access to a specific document, then a custodial official is required to supply the document upon request and without cost, immediately or as soon as possible. A decision not to deliver may be appealed within the agency, to the supreme administrative court, or to the parliamentary ombudsman. The services of the ombudsman are free and he assumes the burden of moving forward once a complaint has been lodged with him.

The exemptions are very carefully and precisely contained in the secrecy act and generally cover the same sort of material as is accepted under the American system and proposed under Bill C-225. National security, defence matters, certain types of criminal investigation, exchange of documents with foreign powers, information which would breach the privacy of individual, all qualify as secret. In addition working papers with one or two exceptions are not made available until the decision in respect to which the papers have been prepared has been made.

In addition to these laws the Swedish parliament has also passed an automatic data processing law. This law makes provision for the registration of all who wish to gather material through computers; the establishment of rules under which the material is gathered and disseminated, and the establishment of an appeal board. Sweden seems to be the only country which has a specific law in this connection.

In Norway and Denmark there are laws which are much more recent in origin and which provide for a statutory right of access to certain documents, again with certain exceptions. One notable addition in the Danish system is that where, in the preparation of material for a policy decision, an oral communication is made, that oral communication should be reduced to writing and is then considered a document.

A common thread in all these countries is the attitude of the public servants. It is quite apparent that over a long period of time there has been a gradual eating away of these rights by the civil servants and the bureaucracy through actions of the government and the parliament from time to time.

Similarly, in Norway and Denmark, where preparations to proceed with legislation came much later, the civil servants made certain they would move very slowly and cautiously.

● (2100)

In the United States the freedom of information act, first passed in 1966 and then amended in 1974, is said to be founded on the principle that access of information to the public is necessary to determine whether the government is protecting the public interest. It recognized that access to such information is the life blood of a democracy and if it does not flow to the citizenry, democracy withers.

A second basis for the legislation is to make it possible for citizens to have access to facts that can be personally helpful to them. Regulatory agencies, for example, possess large amounts of data, such as inspection reports, consumer complaints, and product tests on a broad spectrum of goods and services, the efficacy of drugs, the nutritional