

The people will also become more aware of the operations of their governments. This is openness, and it is the kind of openness we want Canadians to have today.

An independent review process will be established, which will take away a minister's right not to give information at his own whim and fancy. But matters would be determined by courts if necessary.

The burden of proof with respect to withholding information will be put on the government, where it rightfully belongs. After all, at the present time it is the government which has the documents and is able to withhold them if it wants to. Moreover, a judge would be able to overrule a decision of the government to withhold information and order the release of a document. This is in accordance with our present judicial process which, I am sure, is quite adequate to carry out this function.

I am also pleased that section 41 of the Federal Court Act would be abolished so the government would no longer have the absolute right to withhold information from the courts during any litigation.

Access to information is a prerequisite to the exercise of other fundamental rights and freedoms.

In summary, we need openness of government. In effect, we need freedom of information, and we will get that to some extent in this bill.

There are four basic principles in the bill. The first is the right of Canadians to have access to all information held by the government, except where specific exemptions apply. Second, the burden of proof is to be upon government to justify the withholding of information. Third, it is the right of the courts to order the release of information which has been wrongly withheld. Fourth, there is a procedure to ensure that no exemptions, however drafted, could be used by any government to cover up evidence of illegal conduct. In my view, this set of basic principles goes a long way toward addressing the present situation.

When we talk about freedom of information, we must also consider the right to privacy. Part IV of the Canadian Human Rights Act, entitled "Protection of Personal Information", received royal assent in July, 1977. The legislation became operational on March 1, 1978. The objects of the legislation were to inform individuals of the types of personal information which the government holds about them and the uses to which such information is put. It was also to provide the right of access of individuals to information about them held by the government, to control the way in which personal information held by the government is used and made available to others and to regulate the collection and storage of personal information. This is the important issue in the interrelationship between protection of personal information and access to information legislation. There must be a proper balance between the public's right to access to information held by the government and the protection to which the individual is entitled regarding his personal privacy.

### *Access to Information*

I refer hon. members to the minutes of proceedings and evidence of the Standing Joint Committee on Regulations and other Statutory Instruments for June 27, 1978, and particularly to page 34:6. Under the heading "Personal Privacy" we read:

—your committee favours the approach taken in the U.S. legislation and in the Australian minority report bill whereby the use of the term "unwarranted invasion of personal privacy" implies a balancing process in which the right of privacy of affected individuals must be balanced against the right of the public to be informed.

I also refer hon. members to the Australian act of parliament of August 25, 1980, where the same concern is indicated with regard to the right to privacy. Included in the bill we find that amongst other things a document is exempt from disclosure if its disclosure would involve the unreasonable disclosure of information relating to the personal affairs of any person.

Some concern was also indicated about the possibility of a conflict between privacy and freedom of information. It was determined by the Australian government that there was in fact no conflict. However, the Australian government put in a precautionary clause that the whole matter would be subject to review three years after the act came into effect.

I hope the government will consider doing exactly the same thing in this jurisdiction. It is to be noted that this bill provides the right to make corrections to personal information in government files. This is a very important aspect of the bill. It will strengthen the protection of privacy by imposing strict controls on the use and disclosure to third parties of all personal information held by government departments and agencies. Under this bill an individual would have to be notified when information that could adversely affect his or her interest is to be released and the individual allowed to make representations as to why the information should not be released, and to appeal a decision to release it.

Let it be understood that personal privacy is the right of access to one's own file and to know and control what information the government holds about us. This freedom of information legislation extends the right of access to all retrievable personal information held by the government.

In the United States the right of access is granted under the U.S. freedom of information act to a third party to obtain personal information, provided the access does not amount to a clearly unwarranted invasion of privacy. In this case, the onus to establish that the invasion is clearly unwarranted, rests with the government and/or the individual whose privacy is being invaded. Our bill, in effect, follows this same tenor, and the same principles will be carried out and adopted. In practice this means the government is put on the defensive, as is the individual and, of course, where either fails to establish a case, the information would be released.

There is much history that goes with freedom of information. Among developed countries, Sweden has the longest history of public access to government information. It goes back as far as 1766 to one of the country's basic constitution laws known as the freedom of the press act. There have been freedom of information laws in the United States since 1966.