under the code. The disclosure of personal information in the circumstances set out is always left to the discretion of the head of the institution. In exercising this discretion, he or she will be expected to weigh the interest in disclosing the information against the resulting invasion of privacy.

The disclosure of personal information by government institutions will be closely monitored by the privacy commissioner. And in instances where disclosure of personal information is most sensitive, such as a disclosure to the police, special controls have been included in the legislation to ensure that the privacy commissioner will scrutinize all disclosures carefully. The privacy commissioner can, of course, report to the head of the institution involved, and to Parliament, where he or she finds that a government institution has not complied with the code.

The second significant way in which the new privacy legislation expands the rights created under Part IV is the creation of a right of judicial review of refusals to provide access to personal information. This right is, of course, parallel to that granted in the access to information legislation and recognizes that the courts, and not the government, should be the final arbiter of disputes over access. In addition, the privacy commissioner has been given the specific responsibility to oversee the use of exempt banks. Where the commissioner finds that personal informatioan has been improperly included in an exempt bank, he or she can refer the issue to the Federal Court. The court, if it agrees, can order the information removed from the bank.

Finally, the number of government institutions to which the legislation applies has been considerably expanded. This paves the way for the next stage in the development of privacy legislation, extension of the principles respecting the protection of personal information to the federally regulated private sector.

[*Translation*]

Finally, the third component of Bill C-43 consists of new rules that will govern the privileges now vested in the Crown as regards evidence before the courts and also what is known as public interest immunity. These new provisions will supersede Section 41 of the Federal Court Act, according to which the Crown enjoys absolute privilege when a minister certifies that the production of information before the courts would be injurious to international relations, national defence or security, federal-provincial relations, or that it would disclose a cabinet confidence. The new clauses of the Canada Evidence Act will restrict absolute privilege to confidences of the Privy Council. This decision is the result of long and careful consideration by the government. Judgments handed down recently by the highest courts of British Columbia and Alberta have stated that cabinet confidences could, in certain cases, be disclosed in court. Such judgments run counter to a long tradition of legal precedent in Canada. The point is therefore that the position of our common law is still not quite clear on the court's obligation to protect cabinet confidences.

In the circumstances, the government thought it wiser to maintain absolute privilege in this regard and to simply withdraw such documents from the scope of the legislation on access to information and privacy. However, the Crown's absolute privilege has been repealed with respect to all other records. When a minister objects to the disclosure of information in court, he will have to certify that his objection is made on the grounds of a specified public interest. A justice of a superior court may examine or hear the information and order its disclosure, if he considers that the public interest in disclosure outweighs in importance the public interest grounds raised in the minister's objection. This new approach is therefore far more liberal than Section 41 of the Federal Court Act, and I am certain that it serves the interests of justice and the parties concerned.

[*English*]

Quite apart from the factual contents of the bill, I think it is important for the House to be aware of its broader significance. In a sense, this legislation sets out bottom line rules. It will be more in the nature of an appeal mechanism available to Canadians for the event where their informal requests for information are turned down. It is more than likely that people will continue asking for government information as they always have: outside the scope of this act. This is how it should be. Indeed, I do not anticipate, for instance, that the press will be using the legislation on a regular basis.

The mere fact, however, that the legislation is on the books will lead government officials to be as forthcoming and as responsive as they would be if the requests had been filed under the act. This brings me to my second point. The Access to Information Act will bring about a very major change of thinking within government. Departments and agencies will be far more sensitive to inform the public of what they are doing. At any rate, the bill contains such a wide array of checks against abuse that government will have no choice but to apply the legislation in a reasonable and open fashion. These checks will be embodied in the powers of the information commissioner, in the process of judicial review, in the regular reporting to Parliament by each government institution and the information commissioner and, lastly, in the permanent review of the act's operation that will be carried out by a parliamentary committee.

Finally, this legislation is not cast in stone. It is but a beginning—an important beginning. As I mentioned earlier, a parliamentary committee will undertake a comprehensive review within three years to find out how the legislation can be improved. The committee will be able to question experts and interested parties in order to evaluate how the legislation affects government operations, and to obtain the views of the information and privacy commissioners. It is with the benefit of practical experience that it will be recommending whatever changes are necessary. Canadians will draw maximum benefit from legislation which guarantees its own revision.

Some hon. Members: Hear, hear!