

From: Fred Vallance-Jones [REDACTED]
Sent: February 28, 2025 1:09 PM
To: Office of the Legislative Counsel
Subject: letter to public bills from King's Journalism faculty re: Bill 1
Attachments: JFacultylettertoPublicBills_final_feb28_25.pdf

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Hello,

Please find attached a letter from members of the journalism and writing faculty at King's, addressed to the Public Bills Committee.

You can reach me at 902-880-5470, should you have any questions.

Have a great day,

Fred Vallance-Jones (he/him)
Associate Professor, Director of Journalism
University of King's College
Halifax, Nova Scotia
902-422-1271 ext 147

King's and Halifax (Kjipuktuk) sit on unceded Mi'kmaw land in Mi'kma'ki.

African Nova Scotians are a distinct people whose histories, legacies and contributions have enriched Mi'kma'ki and Nova Scotia for over 400 years.

February 28, 2025

Public Bills Committee
Nova Scotia Legislature
c/o Office of the Legislative Counsel
CIBC Building, Suite 802
1809 Barrington Street
B3J 2X1
Via email: legc.office@novascotia.ca

To the Public Bills Committee:

We are members of the faculty of the School of Journalism, Writing & Publishing at the University of King's College.

We are alarmed at the amendments to the Freedom of Information and Protection of Privacy Act and the Municipal Government Act contained in Bill 1, An Act Respecting Government Organization and Administration. Our concern is that these amendments, as proposed, would further weaken access to information in this province. We also feel strongly the changes should not have been advanced in omnibus legislation. We would, therefore, call for these amendments to be withdrawn in favour of an independent, arms-length review of the legislation that would have the aim of fully modernizing the access regime in Nova Scotia.

The Supreme Court of Canada has called access to information a quasi-constitutional right, and Nova Scotia has the distinction of having been the first jurisdiction to enact such legislation, in 1977. The original act was strengthened in 1993, and access rights were extended to other public bodies and municipalities in 1999. All this seemed appropriate in a province that is proudly the cradle of parliamentary democracy in Canada.

Today, Nova Scotia's access legislation is dated and falls short of what is required in modern legislation. As one example only, the province has insisted on retaining a weak review mechanism, with the only means of obtaining a binding ruling being an action in the Supreme Court. Many other areas also require attention.

Free speech advocates, including the Canadian Association of Journalists, have called for amendments to strengthen the act. So has the Information and Privacy Commissioner (Review Officer). The current proposed changes ignore most of this and focus entirely on narrow provisions that further constrain access rights. They would give officials the right to

disregard requests and give the commissioner the right to refuse to conduct a review when access is denied, or to end a review at any point.

What appears to be happening is that we are moving away from an accountability regime to a processing regime, in which the efficiency of processing requests is increasingly seen as the priority, rather than the clearly enunciated purpose of the act, holding the government fully accountable. Under the proposed amendments, requests could be disregarded if officials deem them “trivial” or too broad, weren’t clear enough, or would “unreasonably interfere” with the public body’s operations, among other reasons.

In *O’Connor v. Nova Scotia*, the Court of Appeals considered the unique language in Nova Scotia’s Freedom of Information and Protection of Privacy Act, which says its purpose is “to ensure that public bodies are fully accountable to the public.” The court noted:

Nova Scotia’s lawmakers clearly intended to provide for the disclosure of all government information (subject to certain limited and specific exemptions) in order to facilitate informed public participation in policy formulation; ensure fairness in government decision making; and permit the airing and reconciliation of divergent views. No other province or territory has gone so far in expressing such objectives.

The amendments in Bill 1, which would erect new barriers to access by giving officials the right to simply disregard requests, do not live up to this high standard, in our view.

While such provisions do exist in other access to information acts in Canada, they usually require the review body or commissioner to give consent to requests being disregarded. This approach is highly preferable, as it would ensure officials could not simply refuse to respond, with the only remedy being an after-the-fact request for a review by the commissioner – and, if the commissioner’s recommendations were not followed, an application to the Nova Scotia Supreme Court, with all its attendant delays and costs.

Therefore, if the Legislative Assembly is of the view that the provision to disregard requests should remain in the bill, at the very least it should be amended such that approval from the Information and Privacy Commissioner (review officer) is required before a request can be disregarded.

But this is not enough on its own.

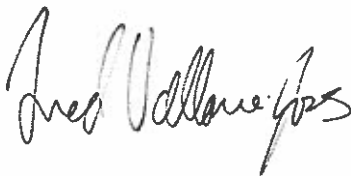
We note with some dismay the decision to include these amendments in a broad bill with a title that gives no hint of the fundamental changes to access rights contained within.

Amendments to the Freedom of Information and Protection of Privacy Act and the Municipal Government Act, Part 20, require a comprehensive, independent, arms-length review of these statutes, and then should be included in clearly titled legislation with an opportunity for wide debate before passage. An internal review process such as that underway since 2023, accompanied by narrow amendments in omnibus legislation, does not rise to the especially high standard of holding government “fully accountable.” This is simply not the way to amend laws that are not just any administrative statutes, but fundamental pillars of our democracy.

This applies equally to the provision allowing for the disregarding of requests, and those that would permit the commissioner to refuse a review request, or to end a review, for any reason.

We respectfully submit, therefore, that these amendments be withdrawn until there is the opportunity for a full and open discussion about all needed changes to Nova Scotia’s information access laws.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Vallance-Jones". The signature is fluid and cursive, with the first name "Fred" being more prominent.

Prof. Fred Vallance-Jones (Director of Journalism)

On behalf of:

Prof. Tim Currie

Prof. Pauline Dakin

Prof. Brian Daly

Charlotte Gill

Inglis Prof. Dean Jobb

Inglis Prof. Stephen Kimber

Kim Pittaway

Prof. Trina Roache

Prof. Terra Tailleux

Prof. Lisa Taylor

Dr. Gillian Turnbull (Director of Writing & Publishing)