

FILE NO. - 95/003

**REPORT WITH RESPECT TO THE APPLICATION FOR REVIEW
OF AN APPLICANT WITH RESPECT TO INFORMATION REQUESTED
FROM SASKATCHEWAN ENVIRONMENT AND RESOURCE MANAGEMENT**

The Applicant applied to Saskatchewan Environment and Resource Management (the "Department") for access to a letter containing personal information about himself.

His request for access was refused, and by letter dated November 28, 1994 he was advised, in part:

"The record your requested is not in the custody of or under the control of this government institution as defined in section 2(1)(d) of The Freedom of Information and Protection of Privacy Act.

The record in question is maintained in the office of the Minister of Environment and Resource Management, however the access provisions do not apply to records maintained in the Minister's office as defined in section 2(2) of the Act."

The relevant portion of the definition of government institution in *The Freedom of Information and Protection of Privacy Act* (the "Act") is Section 2(1)(d):

"2(1) In this Act:

- (d) "government institution" means, subject to subsection (2):
 - (i) the office of Executive Council or any department, secretariat or other similar agency of the executive government of Saskatchewan;..."

Section 2(2) provides:

"(2) "Government institution" does not include:

- (b) the Legislative Assembly Office or offices of members of the Assembly or members of the Executive Council;..."

I have examined a copy of the letter in question. While it is addressed to "Honourable Bernie H. Wiens, Minister , Environment & Resource Management", it does not, in my view, deal with departmental business as such. The letter is a personal letter to the Minister expressing the concern of the writer that certain events involving the Applicant might have some political implications of which the Minister should be aware. It seems to me that it is precisely this sort of document which the exception or exclusion in Section 2(2)(b) was intended to cover.

Members of the Legislature, including Members of the Executive Council are, in addition to their involvement in the administration of government, also involved in the ongoing political process which culminates from time to time in the electoral process. It is my conclusion that records of these activities, as opposed to records pertaining to government business, are excluded from and are not subject to the Act.

It was suggested to me by the Applicant that the letter contained information which was defamatory or derogatory with respect to him, and I think it only fair to say that the letter does not contain anything which could possibly be interpreted as defamatory of the Applicant.

While the letter appears to be quite innocuous to me, I agree that disclosure is not required by the Act.

Dated at Regina, Saskatchewan this day of February, 1995.

**Derril G. McLeod, Q.C.,
Commissioner of Information and
Privacy for Saskatchewan**