Accessibility and Archives

by JEAN TENER

The preservation of written information is an age-old human activity done not for the benefit of posterity, but to serve rulers, governments, and administrations. Such records were usually preserved in strict secrecy and under close supervision.[1] This paper examines the historical background to, and identifies some of the implications of, liberalized access for both public and private archives. There appears to be no professional consensus about the effects of the liberalization of access; dire predictions of an unmanageable deluge of documents are found alongside prophecies of a diminishing archival record. To be effective and influential in this debate, archivists need to understand the issues and clarify their position.

Restrictive attitudes to access have been challenged historically by the rise of democratic government and by the advance of scholarly research. Modern historiography, developing from Enlightenment humanism and rationalism, and the scientific method, is based on "critically explored and evaluated sources...."[2] Archives therefore had to fulfil not only their ancient administrative function, but also serve a world of scholars increasingly demanding access to records of recent date. In the words of Charles Kecskeméti:

> Un vaste public s'intéresse à l'histoire récente et contemporaine.... Les historiens ne sont plus les seuls utilisateurs des archives. Economistes, sociologues, démographes, géographes, etc., fréquentent, de plus en plus nombreux, les salles de lecture des Archives pour y effectuer des recherches qui, de par leur nature même, requièrent l'accès à la documentation récente....[3]

Similarly, the "democratization and nationalization of the social structure and public life" since the late eighteenth century demanded recognition of the principle that public records should be open in the interest of keeping government visible and responsible.[4] Thus acceptance of the people's right to rule implied

1 A. Wagner, "The Policy of Access to Archives: From Restriction to Liberalization," *UNESCO Bulletin for Libraries* 24, no. 2 (March-April 1970): 73-74.

2 Ibid., p. 74.

3 Charles Kecskeméti, "La Libéralisation en matière d'accès aux archives et de politique de microfilmage," *Archivum* 28 (1970): 30.

4 Wagner, "Access to Archives," p. 75; Alan F. Westin and Michael A. Baker, *Databanks in a Free Society: Computers, Record-Keeping and Privacy* (New York, 1972), p. 16.

the state's obligation to make available the records of its own activities.[5] This added another archival function, and another clientele from the politically aware public.

In their struggle against eighteenth-century Britain, the Thirteen Colonies explicitly acknowledged the principle of access. When the Continental Congress recognized itself as a national assembly, it passed a resolution stating that "it is essential to the interests of every free state, that the conduct of the public servants should be known to their constituents...."[6] It is, however, the French revolutionary government which is generally credited with opening archives, both institutionally and legally, by creating the first modern archive and legislating the first modern Archives Act granting access to all citizens.[7] In Britain, the Public Records Act of 1838 was regarded as a landmark in the evolution of a civilized and informed democracy; it was in this context that the Master of the Rolls, the official in charge of public records, wrote in 1839 that they "ought to be kept and managed under such arrangements as may afford the public the greatest facility of using them that is consistent with their safety."[8] The Russian Revolution of 1917 added yet another dimension to the principles of access, for the revolutionaries were "deeply entrenched in historical theory and inexorably committed to the necessity of historical interpretation...." Records were not merely evidence of events past. More important, they were evidence of the inevitability of those events. This commitment to a doctrinal historical imperative "gave both extensive philosophical justification and crucial political importance to documentary control."[9] Not surprisingly, the result was the development of state-directed principles concerning the utilization of documentary records. After World War II, access to archives received a powerful practical boost toward liberalization when the victorious powers seized and made available without restriction almost all German sources from Bismarck to 1945.[10] The effects of what might be termed a retributive access policy soon moved scholars to seek access to the archives of their own governments in a search for the full picture.[11]

The archival world, while maintaining its traditional concern for preservation, classification, and arrangement, and while recognizing obvious political difficulties, has acknowledged in principle such democratic and scholarly claims to access. From its inception in 1948, the International Council on Archives (ICA) entrenched in its constitution the objective "to facilitate more frequent use of archives . . . by encouraging greater freedom of access...."[12]

5 H.G. Nicholas, "Public Records: The Historian, the National Interest and Official Policy," *International Journal* 20 (Winter 1964-65): 33.

6 L.H. Butterfield, "The Scholar's One World," *American Archivist* 29, no. 3 (July 1966): 351.

7 Wagner, "Access to Archives," p. 73.

8 Nicholas, "Public Records," p. 33.

9 Patricia Kennedy Grimsted, "Archives in the Soviet Union: Their Organization and the Problems of Access," *American Archivist* 34, no. 1 (January 1971): 27.

10 Wagner, "Access to Archives," p. 75.

11 Ibid.

12 S.N. Prasad, "The Liberalization of Access and Use" (Paper presented at the VIII International Congress on Archives, Washington, D.C., September-October, 1976), p. 1.

To encourage such liberalization, the ICA held an Extraordinary Congress in 1966 devoted to this very theme. This Congress solemnly proclaimed "the international ratification of the 'Declaration of the Archival Rights of Man' as set forth in the epoch-making French Law of 1794."[13]

The transition from regarding access as a favour to considering it as a right is almost complete, but a principle requires some legislative or regulatory machinery to achieve practical application.[14] Some of these mechanisms have already been noted, such as the resolutions of the American Continental Congress, the French legislation of 1794, the British Public Records Act of 1838, and the archival law of post-revolutionary Russia. Yet it is evident that progress is less than satisfactory.

Several issues of *Archivum*, the official journal of the ICA, have been devoted to the publication of archival legislation and regulations from around the world. Since it has been somewhat wryly noted that legislators "have failed to establish a body of clear, precise and universally applicable regulations with a solid and coherent theoretical base,"[15] an analytical examination appears fruitless, if not impossible. The 1966 ICA Extraordinary Congress learned that there was "nothing remotely approaching uniformity in the rules governing access to modern archives."[16] Furthermore, since conditions were frequently attached to the access allowed, it was concluded that extensive enquiry would be necessary to determine how most of these rules of access actually worked in practice. The safest generalization appears to be that access everywhere is subject to considerations of security, questions of personal privacy, and closure of documents for varying periods.

Nevertheless, there has been a continuing effort to standardize access regulations. The 1968 Madrid Congress of the ICA adopted specific international standards for the liberalization of access policy by urging a closed period of no longer than thirty years, the application of similar rules for both private and public papers, and non-discriminatory regulations for both native and foreign researchers.[17] The ICA also undertook to develop a model law to assist those engaged in drafting or revising archival legislation in order "to bring it into line with the political, legal, and technical exigencies of modern development."[18] Published under the auspices of UNESCO in 1972, the draft law on production and right of access encourages the methodical transfer of public records to archival repositories, the democratic exercise of powers entrusted to archives administration, and access without distinction made between users. Consistent with the development of modern scholarly research, the law's pro-

13 Wagner, "Access to Archives," p. 76.

14 H. Hardenberg, "Abstracts of Foreign Periodicals," *American Archivist* 34, no. 2 (April 1971): 204.

15 Salvatore Carbone and Raoul Gueze, *Draft Model Law on Archives: Description and Text* (Paris, 1972), p. 85.

16 W. Kaye Lamb, "Liberalization of Restrictions on Access to Archives," *Archivum* 16 (1969): 35.

17 Prasad, "Liberalization of Access," pp. 1-2; Morris Reiger, "The International Council on Archives: Its First Quarter Century," *American Archivist* 39, no. 3 (July 1976): 303.

18 Carbone, *Draft Model Law*, "Preface," n.p.

visions are based on the assumption that archives are cultural assets rather than merely political or administrative records. The attempt to reconcile the public's right to cultural research on the one hand, with respect for an individual's privacy and the maintenance of a realistic level of secrecy for the records of public administration on the other, results in provisions which many find unacceptable. Transfer to an archives under the model law is synonymous with free access; the general time limit prescribed is twenty-five years. Where personal privacy and state secrets are concerned, the longest period of closure appears to be fifty years "after the conclusion of the matter to which they refer ...." Recognizing the obvious conflict of values, the authors chose the more liberal approach arguing that the "principle of free access . . . should no longer have to be sacrificed every time it clashes" with the secrecy of government business or with the privacy of individuals.[19]

Another impetus for standardizing rules of access has come from national professional organizations. For example, in 1973 the Council of the Society of American Archivists announced its own code for access confirming the principle of equal access and specified time restrictions but, unlike the international standards, made no recommendation about the desirable duration of restricted access.[20]

The efforts of international and national professional organizations, supported by interested citizens, to encourage liberalized access have not been entirely unfruitful. The 1976 ICA Congress devoted part of its proceedings to a review of progress during the decade since the Washington Extraordinary Congress. A report entitled "The Liberalization of Access and Use" noted that, although the problems facing archivists remained basically the same as those of the 1966 and 1968 Congresses, "the last decade has seen a clear trend to throw open records of a more recent date for historical research." Whereas "scholars ten years ago were allowed generally to consult records which were at least 50 years old, today the 30 year old records are generally open. . . ."[21]

Within this trend, however, several distinct counter-movements can be discerned. For instance, the desire to see documents of the recent past has not necessarily been matched by governmental willingness to permit access.[22] Strengthened by powers of centralized authority undreamed of by earlier autocracies, modern states have discovered that they could devise "means to thwart, or at least limit" the use of archives with comparative ease.[23] One of these is technical delay: while the principle of public access is implicit in the system of specified closed periods of time before access, the immediate effect is denial of access. Moreover, the intent of legislators to set the maximum period of closure only for the most sensitive records often results in blanket

19 Ibid., pp. 82-92,187.

20 *American Archivist* 37, no. 1 (January 1974): 153-54.

21 Prasad, "Liberalization of Access," p. 2.

22 James O'Neill, "Will Success Spoil the Presidential Libraries?" *American Archivist* 26, no. 3 (July 1973): 349-50.

23 Wagner, "Access to Archives," p. 74.

closure of all files for the maximum duration. As one scholar has pointed out, if the rule says fifty years, "no one gets anything until it is 50 years old."[24]

Another restrictive device is access applied arbitrarily to give an advantage to a favoured researcher or, perhaps more often, to serve the purposes of those permitting access.[25] A singular example of the latter was the publication by each of the chief European participants of official editions of carefully selected archival sources concerning the origins of World War I. Meanwhile the relevant record groups from which these selections were made remained shut.[26] That these particular publications advanced access should not disguise the fact that access was being given selectively and for political reasons. While a standard procedure is obviously preferable to such arbitrariness, the experience of inflexibly applied rules gives rise to a scholarly fear that standard access rules may backfire, leading to blindly imposed interpretations which become devices of restriction in much the same manner that closed time periods have been inflexibly imposed to the maximum.[27]

Another mechanism of restriction is file classification, that is, files closed not for a specific time, but perhaps indefinitely, because of their sensitive subject matter. In 1973 it was estimated that one million people in and outside government in the United States alone had the authority to classify information using security criteria.[28] Attempts have, of course, been made to counteract these restrictive practices, but the results are not encouraging. President Eisenhower's Executive Order 10501 of 1953 concerning classification stated in part that "it is essential that the citizens of the United States be informed concerning the activities of their government," and the assumption was that it was issued "not only with the idea of preserving material essential to the national security, but with the objective of preventing the indiscriminate closing or restriction of material."[29] By 1972, however, it was claimed that the desire to keep material closed had been the emphasis of the entire system, while the need to make it available had received insufficient attention.[30]

Even more alarming has been the ability of those in power to subvert declassification orders. In 1961 President Kennedy wrote that officials "should have a clear and precise case involving the national interest before seeking to withhold from publication documents or papers fifteen or more years old."[31] He issued an Executive Order which required automatic downgrading and declas-

24 C.P. Stacey, "Some Pros and Cons of the Access Problem," *International Journal* 20 (Winter 1964-65): 52-53.

25 See Larry J. Hackman's review of Carol M. Barker and Matthew H. Fox, *Classified Files: The Yellowing Pages*, in *American Archivist* 36, no. 2 (April 1973): 239.

26 Wagner, "Access to Archives," pp. 74-75.

27 Nicholas, "Public Records," p. 44.

28 James O'Neill, "The Accessibility of Sources for the History of the Second World War: The Archivist's Viewpoint," *Prologue* 4, no. 1 (Spring 1972): 22; L.M. Klempner, "The Concept of 'National Security' and Its Effect on Information Transfer," *Special Libraries* 64, no. 7 (July 1973): 264.

29 O'Neill, "Accessibility of Sources," p. 25.

30 Ibid., p. 30.

31 Stacey, "Some Pros and Cons," p. 52.

sification. Nevertheless, officials have thwarted uniform implementation and the White House staff itself has been "at least as lax as other parts of the government in carrying out the Order's requirements."[32]

The extent of the failure of such measures is underlined by the reception accorded President Nixon's Executive Order of 1972 which repeated an eighteenth-century refrain that the "interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public."[33] Instead of being welcomed as an effective means of providing greater accessibility, the Order was dismissed as a "largely political act designed to still critics and stave off . . . more fundamental change."[34] In other words, it was cynically regarded as being expressly designed to impede access.

The failure of such instruments to facilitate access has led to agitation for legislation typified by the 1966 United States' Freedom of Information Act, which was designed to encourage the fullest possible disclosure of information. However, the Act's intent has been subverted, for its legislated authority to withhold certain categories of material—intended to be interpreted in a narrow and limited sense—has been seized upon to endorse the principle of restricted access. Ironically, the provisions of the Freedom of Information Act have been used to justify a principle contrary to its intent.[35]

Such perversions of measures to facilitate access can also be found in Sweden, the country most often cited as a model for access to records. Swedish constitutional law effectively states that government documents are public unless legal provision is made to the contrary. The result has been the introduction of legislation withholding certain categories which in sum may be more extensive than those classes restricted in the United States by Executive Order. In an appearance before the Canadian Parliamentary Joint Standing Committee on Regulations and Other Statutory Instruments in 1975, Professor Donald C. Rowat, a sympathetic observer of the Swedish system, testified that the Swedish government "attempts to get around the Constitution." Special public corporations which are exempt from open access can be created; documents can be declared "unfinished" and therefore inaccessible; and, of course, the written instrument can be replaced by the telephone call.[36]

In the Soviet Union, "the most politically important and sensitive records, and some of the most culturally and scientifically significant are outside the jurisdiction" of the Main Archival Administration, the government bureaucracy charged with responsibility for archival material.[37] This is the case, for

32 Hackman, review of *Classified Files*, p. 238.

33 Gordon Robertson, "Official Responsibility, Private Conscience and Public Information," *Transactions of the Royal Society of Canada*, Series IV, 10 (1972): 152.

34 Hackman, review of *Classified Files*, p. 237.

35 Klempner, "Concept of 'National Security'," p. 265.

36 Robertson, "Official Responsibility," p. 153. For an examination of the Swedish situation which includes the relevant legislation and lists exemptions, see Stanley V. Anderson, "Public Access to Government Files in Sweden," *American Journal of Comparative Law* 21, no. 3 (Summer 1973): 419-73.

37 Grimsted, "Archives in the Soviet Union," pp. 33-34.

instance, with the archives of the Communist Party and of the Foreign Ministry. Although the Russian ICA representative might claim in 1966 that there were no time restrictions, and very few content restrictions,[38] the Soviet authorities have this apparently free situation well under control. In fact, "archival access to many types of material is severely limited and many intellectually probing historians are excluded. . . ."[39]

Divergent approaches to access and restriction internationally suggest that each national pattern is formed by its own social and political frames of reference. No nation, it seems, can escape the influence of its past on archival policies. The Swedish ICA representative pointed out that his country's constitutional right of access "est le résultat de traditions et de moeurs politiques qui sont, en quelque sorte, particulières à nos pays," and derives its strength from conditions peculiar to itself.[40] Elsewhere historical forces produce different results. Access in the USSR is clearly related to the fact that the comprehensive Soviet archival system "is part of a larger effort by the State and Party . . . to establish and ensure continuance of political and ideological control over all phases of society and culture."[41] Like Sweden, the USA has a constitutional framework which exerts a powerful influence on accessibility. The American attitude to access, generally regarded as liberal by Europeans, arises from the constitutional division of powers where executive secrecy is counterbalanced by congressional scrutiny. In contrast, it appears that truly liberal access policies are unlikely to be found in parliamentary systems where cabinet responsibility, civil service neutrality, and the dominance of the executive combine to encourage an autocratic attitude that places the onus on the public to seek information, not on the government to provide it.[42]

Canada does not have so restrictive an atmosphere as the USSR, but it clearly lacks the counterbalances found in the USA and Sweden. The government's own report on public accessibility, *To Know and Be Known*, concluded almost a decade ago that the "tradition of tight administrative secrecy [that] has come to us from both England and France" has created "an atmosphere of reticence" and a "proprietary attitude" to records in government circles.[43] The report found no statutory provision permitting access, therefore, no right of access. Admission to view records was a departmental prerogative or "at the sole discretion of the Dominion Archivist." Small wonder that scholars have charged that Canada's "records policy has been on the vague side."[44] As a

38 Alexander A. Soloviev, "Procès-verbal de la séance," International Congress on Archives, Washington, 1966, *Archivum* 16 (1969): 58.

39 Patricia Kennedy Grimsted, "Regional Archival Development in the U.S.S.R.: Soviet Standards and National Documentary Legacies," *American Archivist* 39, no. 1 (January 1973): 48.

40 O. Jagerskiöld, "Procès-verbal de la séance," International Congress on Archives, Washington, 1966, *Archivum* 16 (1969): 57; K.W. Knight, "Administrative Secrecy and Ministerial Responsibility," *Canadian Journal of Economics and Political Science* 32, no. 1 (February 1966): 83.

41 Grimsted, "Regional Archival Development," p. 61.

42 Nicholas, "Public Access," pp. 42-43, 59; D.C. Watt, "Restrictions on Research: The Fifty-Year Rule and British Foreign Policy," *International Affairs* 41 (January 1965): 89.

43 *To Know and Be Known* (Ottawa, 1969), 1:39-40; 2:26.

44 Stacey, "Some Pros and Cons," p. 52.

result of this report, the Prime Minister announced a policy in May, 1969 "of making available to the public as large a portion of the Public Records of Canada as might be consistent with the national interest," and in June, 1973 an implementing Cabinet Directive was issued.[45] While Cabinet Directive No. 46 extends the responsibility of the Dominion Archivist into the area of determining access policy, the provisions remain disconcertingly vague. Restricted categories include records that cannot be legally released, records covered by an agreement with another government or whose release would constitute a breach of faith with another government, those which might embarrass Canadian relations with another government, records relating to security and intelligence, and personnel records. Access is permitted to any record more than thirty years old that has been transferred to the Public Archives of Canada. Transferred records less than thirty years old remain under the control of the responsible department in consultation with the Dominion Archivist. However, records can be withheld from transfer if they "contain information the disclosure of which, in the opinion of the appropriate Minister, would be prejudicial to the public interest."[46] A Public Archives Memorandum notes that this clause was included to encompass types of material not covered specifically in the definition of "exempted record" under the Directive, but which "should nonetheless be exempted from access."[47] Furthermore, as the present Dominion Archivist has pointed out, the Directive fails to provide a terminal date on exemptions.[48]

Such wide discretionary powers will do little to ameliorate proprietary attitudes and traditions of tight administrative secrecy. This conclusion is confirmed by the fact that it was not until 1977, four years after Cabinet Directive No. 46, that the federal government published its Green Paper, *Legislation on Public Access to Government Documents*. Inasmuch as this paper considers access only in the area of administration and policy formulation, it is difficult to judge just how much access would be liberalized or how archival rather than current documents would be affected. The government relies heavily upon traditional arguments about responsibility and accountability in parliamentary systems based on the British model:

> The practice of our Cabinet government requires that the public service (politically neutral and publicly anonymous) be answerable to Ministers, that Ministers be responsible to Parliament, and that each Member of Parliament be answerable to his constituents. A statutory obligation on the part of the government to release certain documents . . . might represent a significant alteration to this system of relationships.[49]

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45 Cabinet Directive No. 46, p. 1.

46 Ibid., p. 2.

47 *Memorandum on Access to Public Records Held by the Historical Branch and by Departments*, 12 August 1974, pp. 1-2.

48 *Minutes of Proceedings and Evidence of the Standing Joint Committee on Regulations and Other Statutory Instruments*, 16 March 1976, 61:15.

49 *Legislation on Public Access to Government Documents* (Ottawa, 1977), pp. 4, 12-13. For a full discussion of the subject from a legal perspective, see T. Murray Rankin, *Freedom of Information in Canada: Will the Doors Stay Shut?* (Canadian Bar Association, 1977).

Not surprisingly, the government accepts the principle of discretionary control, arguing that exemptions will always require a "case-by-case judgment of the balance of public interests. . . ."

The most positive step yet taken is the Canadian Human Rights Act, which allows individuals access to personal records which are housed in government information banks. The Act does designate specific exemptions when documents may be withheld, but these must be cited in any refusal to grant access. The Act also creates the position of Privacy Commissioner, an official who can investigate complaints and whose reports must be laid before Parliament by the Minister of Justice.

As at the federal level, provincial procedures and rules for access suffer from a lack of clarity. Current provincial archival legislation gives more emphasis to transfer than to access. As the Associate Provincial Archivist of Saskatchewan, D.H. Bocking, has pointed out, regulations (as distinct from legislation) are difficult to locate.[50] Provincial freedom of information legislation is now entering the picture, and its effect will warrant close examination. Nova Scotia has passed such an act, Prince Edward Island has introduced a bill, and in almost every province private members' bills have come before the legislatures. It is probable that access in the provinces, practically speaking, is still subject to a considerable amount of discretionary control.

Access in the private sphere has its own problems. Superficially, it might seem in our society that private individuals, institutions, or organizations should have undisputed control over their own records. Such records, however, have a value to society beyond the immediate concerns of the creators. Archivists have a clear opportunity here to assume a liberalizing role through acquisition programmes since access is part of the condition of any transfer to an archives. Material retained in private hands does not, of course, lose its wider value and recognition of this fact has led some countries to pass legislation which designates certain private archival material as national cultural assets, placing the onus for proper care on the private owner, and giving the government the right of pre-emption should the owners wish to dispose of these records. None of this legislation goes as far as the UNESCO Draft Model Law which provides that the possession of archival material older than forty years must be declared to the appropriate archival authority, and that such papers may be designated a cultural asset. Right of access (with some fifty-year exceptions) follows automatically with this status, and owners are placed under a definite obligation to see that their documentary sources are available and preserved. It is recognized, however, that legislation may be a less desirable solution than subtle appeals to prestige and patient persuasion to encourage the deposition of private records in public archives.[51]

The archivist's role of education and persuasion toward freer access to private papers is clear. In the public sphere, however, the archivist faces a genuine dilemma. A public official himself, his professional activity makes him an im-

50 Letter from D.H. Bocking to the author, 19 January 1977.

51 H. Hardenberg, "Legal and Juridical Problems Associated with Access to Archives," *Archivum* 16 (1969): 44; Carbone, *Draft Model Law*, pp. 104-13, 195-99.

portant conduit between public officialdom and the research public.[52] The archivist is thus set between two possibly conflicting sets of values. Professor Zinn of the United States would have archivists "take a stand for the opening up of all public records everywhere, at once, to anyone who wanted to see them for any purpose."[53] Archivists who settle for anything less, he charges, are willing "instruments of social control in an essentially undemocratic society. . . ."[54] M. Bautier of the French Ecole des Chartes agrees with Zinn on the nature of the issue by casting immediate doubt on its validity: "le prétendu droit public, et de chaque citoyen en particulier, à la communication la plus libre possible des dossiers du gouvernement . . . est en fait une position politique. . . ."[55] But in contrast to Zinn, he concludes that the debate "se trouve placé, par définition, en dehors de la compétence des archivistes."

Solutions to the discontent now being expressed in Canada about access to both public and private records necessarily entail "change both in our laws and regulations and also in our practice."[56] The production of workable and more rational laws and regulations requires "a reasoned analysis of the principles of law and ethics"[57] and, M. Bautier notwithstanding, it is vital for the archival world to occupy a role in these deliberations, if only because the day of informal rules of accessibility has ended. The time has passed when penalties for violations of the accepted code of accessibility could be the social and political sanctions of ostracism and exclusion from office.[58] The tendency now is for all sides in the dispute to seek legislated solutions. Political democratization and the enormous growth of government activity with the concomitant expansion of the civil service have led to the codification of sanctions in instruments carrying legal penalties, such as Official Secrets Acts. Similarly, citizens view legislation, either of the right-to-know or of the right-to-privacy variety, as the only vehicle strong enough to produce the changes sought in both public and private spheres.

One school of thought regrets the trend toward legislated controls, preferring to see access less strictly defined. It is argued that, when the archivist has discretionary control, he has enough leeway to effect liberalization himself; it should be realized, however, that this approach also allows discretionary or even arbitrary denial. For example, M. Bautier has expressed disapproval of those for whom "l'histoire se limite à la présentation d'événements plus ou moins scandaleux ou de fait de caractère intime concernant les personalités."[59] In a similar vein, it was suggested during the British debate over

52 Frank J. Cook, "'Private Papers' of Public Officials," *American Archivist* 38, no. 3 (July 1975): 318-19.

53 Herman Kahn, "Some Comments on the Archival Occupation," *American Archivist* 34, no. 1 (January 1971): 10.

54 Howard Zinn, "Secrecy, Archives, and the Public Interest," *Boston University Journal* 19 (Fall 1971): 44.

55 Robert-Henri Bautier, "Procès-verbal de la séance," International Congress on Archives, Washington, 1966, *Archivum* 16 (1969): 48-49.

56 Robertson, "Official Responsibility," p. 157.

57 Kahn, "Some Comments," p. 11.

58 Nicholas, "Public Access," p. 40.

59 Bautier, "Procès-verbal," p. 51.

reducing the fifty-year time restriction that access to material still within a time-restricted period could be controlled by a tribunal charged with keeping out "journalists, thesis writers and other riff-raff."[60] Further, in his Presidential Address two decades ago to the Canadian Historical Association, the then Dominion Archivist, Dr. W. Kaye Lamb, spoke disapprovingly of providing "large blocks of unexploited raw manuscript material from which students can quarry sufficient unprinted matter to secure a Ph.D. degree."[61] Admittedly, this last opinion was expressed in the context of a diffusion programme based on the deposit of complete microfilm series in institutions other than his own, an idea whose time had not yet arrived. Moreover, where the material had come from the archives of France and the United Kingdom, policy had to take account of agreements made with the donors. In fairness, it might also be added that Dr. Lamb welcomed "the individual scholar . . ., the man or woman who comes to us because he or she has a genuine interest in and appreciation of what we have in our collections." Nevertheless, one wonders what the doctoral students of that day thought of Lamb's somewhat cavalier judgment on those quarrying for theses, especially considering the Dominion Archivist's evident approval of the work of one of the "best" historians, who greeted him "with the frank question: 'What have you brought home that I can use for my next paper for the Royal Society?'" It is difficult to see why quarrying unexploited raw material is acceptable for a Royal Society paper, but not for a Ph.D. thesis. Dr. Lamb's speech no doubt leaves a false impression of the arbitrariness of the PAC's access policy during his tenure; yet, even when qualified, his statements reveal a disturbing undertone of perceived if not exercised discretionary power.

The problems entailed by discretionary power are obviously recognized in the discussion on accessibility in the UNESCO Draft Law, where clear, definite and non-discriminatory laws are advanced to protect both user and archivist. Ideally, the archivist should contribute not only to the implementation of policy, but also to its formulation. Too much discretionary power presents the danger that the archivist will become policeman and censor. Should that happen, the question behind Zinn's concern about instruments of social control arises: for whom is the archivist policing and censoring? Such accretions to the archival function can best be avoided by regarding access as something which cannot be divided into open categories for "scholars" and closed categories for "sensational writers," or available to those with a "genuine" interest and unavailable to those who lack an appropriate "appreciation." Access should be indivisible.[62] Whatever its shortcomings, legislation offers at least the hope of a standard and uniformly implemented policy. The archivist's role is to ensure the preparation of legislation balancing professional archival responsibility with recourse to a wider body of opinion in society at large.

Quite apart from the political and social implications of the present situation, archivists cannot afford to assume the role of gatekeeper for public records, if only for practical reasons. Such archival functions as classification,

60 R.R. James, "The Fifty-Year Rule," *Spectator* 213, no. 21 (August 1964): 234.

61 W. Kaye Lamb, "Presidential Address," *Canadian Historical Association Report*, (1958): 5-7.

62 Stacey, "Some Pros and Cons," p. 50.

arrangement, description, and preservation already threaten to swamp available resources. The government's Green Paper on freedom of information acknowledges the incongruity of protecting information unrelated to national security through the application of national security classification—the only course open at present—and promises to change the situation. The government is also re-examining the validity of the thirty-year rule specified in current policy. Regardless of such fundamental changes, if the legislation ensuing from the Green Paper results in requests for material now moving from departments to record centres under the transfer regulation of Cabinet Directive No. 46, the effect on archival facilities may be significant. The Green Paper does not suggest changing the current system which leaves access jurisdiction to the transferring department, but gives the Dominion Archivist custody and assumes that "most of these records would be used in the Archives. . . ."[63]

If current time restrictions are significantly reduced and declassification dramatically increased, can archives cope with the flood? Have archivists even considered what the magnitude of such a deluge might be? Federal declassification in the United States was once estimated to require the full-time labour of more than one hundred extra archivists over an eleven-year period. The procedure has subsequently been simplified, but still poses a formidable task and is indicative of the volume of material involved.[64] Moreover, the problem appears international in scope. In France it has been claimed that a sudden reduction in time restrictions would place such a severe strain on archival resources that the liberalization of access might for some time become a pious dead letter.[65] Accessibility in any meaningful sense must mean not only the legal right to see, but the ability to find.[66] Professional archival control takes time to achieve; unprocessed records are inaccessible records, whether the authorities have declared them open or closed. Sheer mass, even under control, can be unmanageable and will affect archival functions. Even in 1969, complaints were aired that much information legally accessible to non-government users in the United States was "too cumbersome for them to use."[67] The solution suggested was a research service so far beyond the normal reference aid provided in archives that it would amount to primary research on the part of the archivist. The fear expressed recently in *Archivaria* that the scholar-archivist will be replaced by "very efficient technical officers" may well be the trend of the future, but without pejorative overtones, for these persons will be creatively involved in much more than just the daily manipulation of "mountains of detailed but uninterpreted factual material for the convenience of superficial researchers."[68] There is no reason to believe, for instance, that archivists could not acquire sufficient expertise to handle the type of project undertaken by Dr. M. Anderson of the University of Edinburgh, who is creating a machine

63 *Minutes of Proceedings and Evidence,* 16 March 1976, 61:12.

64 O'Neill, "Accessibility of Sources," p. 25.

65 Bautier, "Procès-verbal," p. 51.

66 O'Neill, "Accessibility of Sources," p. 21.

67 "Report of the Task Force on the Storage of and Access to Government Statistics," *American Statistician* 23 (June 1969): 16.

68 T.D. Regehr, "Do We Need New and Improved Archivists?" *Archivaria* 3 (Winter 1976-77): 118.

readable sample of the 1851 census for the United Kingdom "which will be used not only to extend his own work but to facilitate that of others . . ., and will be available to any researcher who wishes to use it and is prepared to pay for a copy or for subsets of the data."[69] Such projects seem to be particularly suited to archival circumstances. Properly designed and carried out, they would increase accessibility and raise the archival image in the academic world.

Unfortunately, problems of accessibility posed by bulk are complicated by the nature of the information collected and by the technology of collection, storage, and retrieval. Citizens of modern societies "expect a high level of social and public services from government, extensive goods and services from private business and industry, and a wide range of cultural, educational, and civic services from private associations." In turn, these expectations lead to the collection of "considerable information about people, events, and social processes. . . ."[70]

Today, all major personal characteristics become documented: vital statistics, social and geographical mobility, wealth, income, education, ethnic and political affiliation, and so on.[71] It is not at all surprising that concern arises over the possible invasion of privacy. Moreover, as scholars turn from the biographical details of the politically important to the materials of quantitative history, the privacy endangered is that of ordinary citizens "who may be unable to assert their rights because they are legally incompetent (children or institutionalized persons) or because they are unaware that records involving them" have been transferred to private or public archives.[72]

In addition, the use of computerized technology increases problems of accessibility. Technical sophistication enables "the centralized processing and storage of large bodies of data" from which "highly detailed analysis would reveal relationships and permit the drawing of inferences about people" not possible before the computer.[73] Thus, the mechanization of personal data records intensifies "the issue of social or jurisdictional utility versus individual privacy."[74] From the archivist's point of view, such linking of data banks can blur lines of authority, creating ambiguous responsibility and making it more difficult to apply rules of accessibility.[75]

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69 Roderick Floud, "Quantitative History: Evolution of Methods and Technique," *Journal of the Society of Archivists* 5, no. 7 (April 1977): 411-12.

70 Westin and Baker, *Databanks*, p. 339.

71 M. Fishbein, "Appraisal of Twentieth Century Records for Historical Use," *Illinois Libraries* 52, no. 2 (February 1970): 161.

72 Virginia Stewart, "Problems of Confidentiality in the Administration of Personal Case Records," *American Archivist* 37, no. 3 (July 1974): 397-98. See also G.J. Parr, "Case Records as Sources for Social History," *Archivaria* 4 (Summer 1977): 134-36.

73 "Storage . . . and Access," p. 14; Arthur R. Miller, *The Assault on Privacy: Computers, Data Banks, and Dossiers* (Ann Arbor, 1971), p. 58.

74 Stephen Harter and Charles Busha, "Librarians and Privacy Legislation," *Library Journal* 101, no. 3 (February 1976): 475.

75 Stewart, "Problems of Confidentiality," p. 398.

The solution to some of these problems has a direct influence on the quality of the record. Partly to protect privacy and partly to make at least some of this expensively collected information available, only aggregated and tabulated information is released. Unfortunately, from the researcher's point of view, this involves "the suppression and ultimate loss" of raw or micro-information, which is the very data scholars want "preserved in usable and accessible form."[76]

At its simplest, the loss of raw data prevents the verification of the aggregates and tabulations themselves; for the archivist wishing to ensure the survival of the richest possible resource, there are even worse results. Without micro-information reaching back to the initial generation of the data, it will be difficult, if not impossible, for scholars to analyse the validity of government policies which are increasingly based upon and justified by statistical data. Sound judgments on the success or failure of policies will be very difficult to make. Furthermore, aggregated material makes it impossible to link records from separate files to manipulate primary data producing new results.[77] This "bleeding" of information from data originally collected for a different purpose has traditionally been a fruitful use of archival material. Its loss through the destruction of raw data in order to preserve privacy cannot be lightly regarded by archivists.

If records susceptible to an invasion of privacy are to be preserved for future use, archival functions must take account of the confidentiality issue. The protection of confidentiality in case files has usually taken two forms: relatively short retention periods have been adopted or the records are simply not transferred to archives. A change in this unacceptable situation will be accomplished only by developing standards of access to accommodate conflicting viewpoints of compiler, subject, and user. Little movement in this direction appears to have taken place. A 1974 American survey addressed to sixteen institutions likely to be involved in such record-keeping disclosed that none "had formally worked out a policy statement covering acquisition, custody, and access to case records from a theoretical and legal perspective."[78] Case files in the public sphere are likely to be covered by statutory regulation. The Canadian Human Rights Act has set a standard for archival records as well as current files. In the private sphere, the archivist is more likely to have to seek his own solutions undoubtedly involving donor-imposed restrictions. If, however, archivists want to assert the historical value of these data, it is imperative that they try to balance the competing elements of individual privacy and information flow.

It is not only the confidentiality issue which demands that archivists develop a well-considered philosophy and a workable ethical code. The notion of the archivist being a scholar personally researching the records entrusted to his care is out of date. Nevertheless, the solution to some modern problems of ac-

76 "Storage . . . and Access," p. 12; M. Fishbein, ed., *The National Archives and Statistical Records* (Athens, 1973), p. 56.

77 Marilla B. Guptil and Janis S. Davis, review of *The National Archives and Statistical Research*, in *American Archivist* 38, no. 1 (January 1975): 48.

78 Stewart, "Problems of Confidentiality," pp. 390-91.

cess may bring us full circle but, if archivists are to assume the research function toward which bulk and technology appear to be driving them, they must win the confidence of the professional and scholarly world. As the Loewenheim/Roosevelt Library controversy demonstrated in the United States, problems of access are often too complicated to be handled through ad hoc committees.[79] Yet, Canadian archivists still have not endorsed national standards of access similar to those of the Society of American Archivists.[80] Important as such codes are, even more so is the development of machinery to handle complaints.[81] In this respect, Canadian archivists will profit by studying the guidelines and mechanisms established by the Joint Committee of the American Historical Association, the Organization of American Historians, and the Society of American Archivists resulting from the recommendations of the Leopold Committee which investigated the Roosevelt Library case.[82]

There can, however, be no simple and definitive solution to the problems of access, since conflicting social values underlie many of the issues. There will have to be a continuing dialogue with the sobering thought always in mind that the quality of the historical record depends on the decisions reached. On the one hand, archivists cannot support a mindless rush to liberalized access, for this could result in a general decline of frankness and honesty in the records preserved by government and a shying away from archives on the part of private donors. On the other hand, restrictions such as the suppression of raw data should not be allowed to impoverish irremediably the archival heritage nor should accessibility be subject to arbitrary implementation on the part of either civil authorities or archivists.

Probably the most fruitful change which archivists should seek in Canada is a basic philosophical one: that the burden of proof should rest on those seeking to impose access limitations. Such a principle will have the "effect of maximizing access because . . . the fact that a positive effort is required to restrict otherwise open archives, works to limit the imposition of restrictions to the specific cases where they are really necessary in the interests of administration or individual rights."[83] Such a change will not be easy to achieve, even if current desires and intentions produce liberalizing legislation. Unfortunately, measures for more liberal access in the public sphere can be honoured more in the breach than in the observance. Nevertheless, despite past failures, liberal

79 A full discussion of this case will be found in the following articles. (The complaint was one of deliberately withheld documents.) Richard W. Leopold, "A Crisis of Confidence: Foreign Policy Research," *American Archivist* 34, no. 2 (April 1971): 139-55; Herman Kahn, "The Long-Range Implications for Historians and Archivists of the Charges Against the Franklin D. Roosevelt Library," *American Archivist* 34, no. 3 (July 1971): 265-75; and Richard Polenberg, "The Roosevelt Library Case: A Review Article," *American Archivist* 34, no. 3 (July 1971): 277-84.

80 "Standards for Access to Research Materials in Archival and Manuscript Repositories," *American Archivist* 37, no. 1 (January 1974): 153-54.

81 Polenberg, "The Roosevelt Library Case," p. 282.

82 "Guidelines of the Joint AHA-OAH-SAA Committee on Historians and Archives," *American Historical Association Newsletter* 12, no. 9 (December 1974): 12-13.

83 Morris Reiger, "Procès-verbal de la séance," International Congress on Archives, Madrid, 1968, *Archivum* 18 (1970): 75-76.

access seems to be the goal that the archival world has set for itself. In this context, it is interesting to speculate that the nature of modern archives is moving archivists in a diametrically opposed direction. The extent of modern records, the technology needed for their manipulation, and, above all, the cost of research in an era of machine readable archives dependent on increasingly sophisticated computers may well mean that only institutions or individuals heavily funded by organizations or government will be able to use these carefully garnered records. It would indeed be ironic to discover that a hard-won liberalization benefits only an increasingly elite clientele.