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# **SPEECH TO THE ASSOCIATION OF CANADIAN ARCHIVISTS**

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Information Management, Technology and the Future of Democratic Accountability

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My work as a historian would not have been possible without the archivists who preserved, conserved, catalogued, stored and retrieved the documents that were my source material. I am delighted to have another opportunity to share some of my experience as a historian to put into perspective the importance of information management and democratic accountability.

My talk today will examine how changes in records technology have affected our ability to scrutinize public policy-making and hold politicians and public servants accountable. My thesis is that technological change is eroding accountability and that we need to take corrective action, to preserve the democratic character of our political institutions.

What do I mean about the term democratic accountability? Primarily, I mean the ability of members of a democracy to obtain the information they need to participate and make informed political choices. Secondly, it is the ability of citizens to put public officials under a form of surveillance that restrains them from making public policy decisions that are contrary to the public interest. The two factors that have the greatest influence on the achievement of this goal are technological change and legal statutes governing the creation, preservation and disclosure of records.

To illustrate the relevance of technological change, I will use an example from when I was researching my doctoral dissertation. I was able to read, in less than two years, almost every record extant the British government, politicians and ambassadors produced from autumn 1800 to spring 1804. This was possible for two reasons. The first is that the records were made of paper and ink that was very sturdy and has a considerable life span. The second is that the machinery of government, the number of officials and the scope of their work, produced a discreet set of records. More importantly, these records are extremely valuable for accountability in that they contain detailed explanations of government policy and the thinking of government policy makers. This was because written correspondence was the only means of communication between people other than in-person conversation.

In comparison, most of my fellow students in London were researching more recent subjects and their experience was different. As of 1900, the machinery of government had grown considerably and the volume of records produced increased exponentially. No one could read every record produced over a four year period during that era. In addition, the quality and sturdiness of the paper and ink had decreased substantially. Copies of typewritten records on onion skin paper were disintegrating. Other records were deteriorating faster than records two or even three hundred years older. The final issue was the use of the telephone permitted government officials to communicate by voice from great distances. This meant that many critical conversations were no longer being recorded. As a result, there was more material for historians to review but it contained less valuable information.

These problems compounded over time. On the one hand, there was an explosion of information that is of decreasing value to the analysis of public policy decision making. On the other, the implementation of email, text and other electronic communications gave public officials with various means of communication that are easier to destroy and more difficult to preserve. This technology can be attractive to officials wishing to avoid public scrutiny. These developments lead to the ironic prospect that future generations may know more about public policy making in the late eighteenth century than in the twenty-first.

I would like to return now to the subject of democratic accountability. As a historian, I have access to records of government whose contemporary citizens did not. In comparison, today most countries have a statutory right of access to records of current public officials, though how effectively citizens are able to exercise that right varies greatly.

Here in Canada we are dealing with access to information statutes that were developed in the 1980s and 1990s. The approach to achieving democratic accountability and the rules they established reflect the political culture and the state of information management and information technology of the time. I joined the BC public service in 1993, when the methods of communication were letter, fax, email (from a desktop PC) and telephone. Since then, we have seen the development of new communication technologies: Blackberry messaging, texting, and social media direct messaging to name just a few. The volume of electronic records has continued to multiply exponentially. At the same time, the squeezing

of government budgets has led to drastic cuts in resources for records management and processing access requests.

The results of these three developments are that it is easier for public officials to escape scrutiny of their communications. The use of communication mediums that facilitate easy deletion and inhibit easy retrieval from government records filing systems results in fewer records of significance being available for access. The increasing volume of records results in greater challenges to locating records meaningful for democratic accountability. Relevant documents remain buried in collections of less relevant ones.

In some other ways, technology is advancing too rapidly for purposes of accountability. New recording technology in the 1980s and 1990s quickly became obsolete. We now have electronic records that we can no longer read because there are no machines capable of reading them. Finally, when governments cut records management, many records are inadequately filed, stored or catalogued, making it more difficult to identify and retrieve records of value and to deliver them in a timely way.

I do not expect that we will be able to reverse these developments. New communications technologies will continue to provide public officials with new ways to communicate in manners that frustrate accountability. The volume of records will continue to grow and equipment will become obsolete. It is unlikely that government will make a significant investment in records management, no matter how strongly Information and Privacy Commissioners, historians and archivists argue for them.

Why is this important? It is because we live in a political culture increasingly infiltrated by fake news. Consequently, it is more crucial than ever for us to ensure democratic accountability that will help voters to make their decisions based on facts and sound arguments rather than prejudice and misinformation.

As I mentioned earlier, our legislation came from a political culture and technological environment of 1980s and early 1990s. It is focussed on paper records and their characteristics and limitations. We should revisit the legislation from the perspective of how well it is promoting democratic accountability. We need to update it to fit with the digital age. Moreover, we must reorient it to ensure that it is making available the kinds of records that will assist voters in making choices and will hold current public officials to account. For example, current requirements for the proactive disclosure of records result in the posting online of records few people are interested in and are of low value from the perspective of accountability. We should require public bodies to make meaningful records available.

We also need to expose the myth that privacy, on one hand, and access to information for the purposes of accountability, on the other, are competing values. Accountability is about holding public officials to account. It requires providing access to information concerning the decisions that public officials make. Privacy is about protecting the personal information of citizens. I think it is informative to examine the French term for privacy: *la vie privée*. This

translates literally as private life. Public officials must be accountable for their decisions as public officials. On the contrary, all citizens, including public officials, have a right to a private life.

Some people mistake the concept of privacy as protecting all types of confidential information. Certain general information should remain protected from disclosure, but this has nothing to do with the concept of privacy. Privacy does not apply to confidential business information or communications subject to solicitor client privilege. Privacy concerns people in their individual capacity.

Citizens should have a right of access to information created and managed by public officials. They do not have a right of access to the personal information of their families, friends or neighbours or celebrities. Protecting the private lives of citizens does not compromise accountability. It is not necessary to invade the privacy of citizens to ensure that public officials are accountable.

In fact, privacy and accountability are not only compatible but also necessary to citizens in their power relationship with public bodies. When one person has knowledge of another person, it gives them certain power over that person. For democracy to function properly, it is crucial that citizens know as much as possible about the work of public officials and that, on the other hand, public officials know the minimum amount about individual citizens. This is the function that access and privacy legislation should serve. We need to ensure that in the future it does a better job of this.

One possible aid is a statutory duty to document. The Canadian Federal Provincial Territorial Information and Privacy Commissioners, led by former BC Commissioner Elizabeth Denham, called for a legislated duty to document. A statutory requirement for government to document significant decisions would help to address the threat posed by rapidly advancing communications technologies. Nevertheless, it is important to get the law right and implement it properly. It should apply only to certain kinds of decisions. Public officials already create Cabinet minutes, Cabinet submissions, Treasury Board submissions and briefing notes that document decisions thoroughly. We need to ensure that these are used properly. However, we need to avoid a duty to document that creates vastly more records that are not needed for democratic accountability. It is important that a duty to document results in the creation only of the right kinds of records.

I think archivists and records managers have an important role to play in this process. You have expertise in determining the relative importance of different categories of records and which of them have enduring value. Officials with these skills should have influence on the scope of this legislation and the development and implementation of the policy to support it.

I recognize that some people might object to any restrictions on the creation of records. From my experience with access applicants, I am aware that different people value different

records and have different reasons for requesting them. I accept the argument that there is a public good in satisfying the information needs of all citizens.

However, my career in the public service has taught me that there are always going to be competing needs and values and that government is not equipped to satisfy them all. With finite resources, we have no option but to set priorities and find compromises. If democratic accountability is the overriding priority, we should do everything we can to ensure that the right records are created and that they are easily identified and retrieved. Inevitably, this will involve difficult choices and leave some people dissatisfied.

Some of you might challenge me about whether democratic accountability should be the overarching priority. The reason that I take this position is that I think many people take our democracy for granted. Baby boomers were used to seeing history as the story of continuous technological, economic and democratic advancement. We never thought that we might need to take care of democracy, it would just take care of itself. My experience as a historian is that this is dead wrong.

Democracy is not enduring, like stone or iron. It is mutable like a plant. If we do not nurture and protect it, it will eventually die. Look at the great age of Classical democracy. It was followed by the Roman Empire and then by an era that we call the dark ages. It took almost two thousand years for western societies to rebuild democracies. If we are not careful, powerful interests could undermine our current system of government and send us into a new dark age. Even now, most countries in the world are not true democracies. Every day, we hear news stories of agents attempting to undermine western democracies. I think that we must remain vigilant or we will lose ours.

I know firsthand that public officials do not like true accountability. They do not want people to find out when they make mistakes or do something that is improper or unpopular. To be fair, nobody does. They would rather have the opportunity to choose what information goes out and to spin it in their favour before disclosing it. The purpose of this is essentially to attempt to lead, and sometimes, mislead the public. Disclosing records in response to access requests, on the contrary, usually prevents them from spinning the information.

Therefore, to ensure real accountability that will preserve and improve the democratic system of government we all cherish, it is essential that we have an effective system of regulated public access to records of significance. That means giving the right people access to the right records at the right time. If we are going to pass a functioning democracy to future generations, we need to ensure that our legislation is working effectively and that we have record-keeping practices that create, preserve and disseminate relevant information expeditiously. I hope that we as access and privacy professionals can work with you as archivists and records managers to achieve these goals.