absolute bans excluding the press and public from court proceedings did not constitute a reasonable limit while closures requiring judicial discretion would be allowed under Section 1 of the Charter. The Supreme Court of Canada offered further instruction in the application of Section 1 in matters relating to the courts in one ruling that struck down an Alberta law prohibiting publication of materials from court proceedings, ruling that such limits were not justified under Section 1.[95] In another decision, the Supreme Court ruled that an injunction restraining picketing and other activities calculated to interfere with the operations of the court was justified under Section 1, even though the lower court record included an affidavit from a member of the Law Society of British Columbia explaining that the "picket line was orderly and peaceful" and that "Persons appearing to have business inside the Courthouse entered and left the building at will and at no time appeared to be impeded in any way by the picketers."[96] Further, in *Canadian Newspapers Co. v. Canada (A.G.),*[97] the Supreme Court held that a mandatory ban on publishing the identity of a sexual assault victim was allowed under Section 1 since it was required to achieve Parliament's objective of facilitating complaints by victims of sexual assaults.[98]

In a recent decision, the Canadian Supreme Court set aside a ban on CBC from broadcasting a fictional account of sexual and physical abuse of children during a trial in Ontario with similar facts and circumstances.[99] While ruling that such a ban did not meet the "reasonable limits" test of s. 1, the majority justices offered an interesting observation about differences between the Canadian and American constitutional approaches to issues like this: "Publication bans, however, should not always be seen as a clash between freedom of expression for the media and the right to a fair trial for the accused. The clash model is more suited to the American constitutional context and should be rejected in Canada."[100]

Access to Information

In both Canada and the United States, the issue of access to government information, to government proceedings, and to government institutions has been played out mainly in the legislative arena. The exception, of course, is the matter of access to judicial proceedings and court documents, discussed in a previous section.

In the United States, rights of access to federal government are provided by the Federal Public Records Law (Freedom of Information Act), which came into effect in 1967, and the Federal Open Meetings Law (Government-in-Sunshine Act) passed by Congress ten years later. The 1974 Federal Privacy Act protects the privacy of government data on individuals and provides individuals a right of access to information about them created and stored by federal agencies.[101] All states have open records laws, and every state has some form of statutory or constitutional right of access to public meetings.

The Supreme Court has issued several important decisions over the years that address the issue of a constitutional access to government and government information through the First Amendment. In *Branzburg v. Hayes,* for example, the Court explained that "It has generally been held that the First Amendment does not guarantee the press a constitutional right of special access

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[95] *Edmonton Journal v. Alta. (A.G.),* [1989] 2 S.C.R. 1326. Earlier, the Ontario Supreme Court ruled that Section 2(b) of the Charter does not confer on the media any general constitutional right to compel access to Court documents which they deem newsworthy. *R. v. Thomson Newspapers,* (1984) 4 C.R.D. 525.40-01 (S.C.O.)

[96] *B.C.G.E.U. v. British Columbia (A.G.),* [1988] 2 S.C.R. 214, at 221.

[97] [1988] 2 S.C.R. 122.

[98] M. Crawford, *supra* note 71, at 9.

[99] *Dagnais v. CBC,* [1994] 3 S.C.R. 835.

[100] *Id.* at 839.

[101] Gillmor, et. al., *supra* note 73, at 203.