• (1430)

Let's get on to Clause 5(5). It reads in part:

—the archivist shall have access to

(*a*) a record to which sub-section 69(1) of the Access to Information Act applies, only with the consent of the Clerk of the Privy Council—

This is one limitation as guided by the Access to Information Act. It is certainly not the worst. Let me read Clause 5(5)(*b*):

a record of a Government institution that contains information the disclosure of which is restricted by or pursuant to any provisions set out in Schedule II to the Access to Information Act, only with the consent of the head, within the meaning of that Act, of that government institution.

This is too sweeping a loophole. It is too broad. It is too vague and it is simply not acceptable. We start off with a very good purpose, that the archivist will be making these decisions, and then we see a whole lot of information simply removed from the purview of the archivist who will never even get to see it. Let me give you the specifics which are set out in Clause 5(6) which reads:

—does not apply in respect of a record containing information that was received in confidence from the government of a foreign state or an institution thereof or an international organization of states or an institution thereof where the government, organization or institution requires the destruction of the record.

This means in short that somebody else, not even the Government and not the archivist, will be making the decision as to whether or not the material can be destroyed.

We understand that when material comes from international bodies, they will want to have some control over it. This could include international organizations and information obtained even within Canada for which no undertaking has been given to keep it secret. To leave that out would be totally unacceptable. Some governments might want to keep information secret over a certain period of time but later they might be willing to have it released. The option to get permission for release of information, as a result of time changing a situation, in records that might have been destroyed will not be there. We all know that governments do change. Decisions that were made to suppress information may be unmade, and yet if Clause 5(6) goes through the option will not even be there to re-apply for the information because the material will have been destroyed.

There are some problems also in Clause 6. Let me read it:

6(1) The records of government institutions and ministerial records that, in the opinion of the Archivist, are of historical archival importance shall

(*a*) be transferred to the care and control of the Archivist in accordance with such schedules or other agreements for the transfer of records as may be agreed on between the Archivist and the government institution or person responsible for the records—

In short, this starts, as does the previous clause, in suggesting that the archivist is going to be making these decisions, that there is going to be this transfer of information. However, again, as with the preceding clause, you move down a little bit in the paragraph and you find a very sweeping loophole. In this case it comes in paragraph 4. We find this sub-clause which was supposed to be giving the material to the archivist:

—does not apply in respect of any record that contains information related to the conduct of international affairs, the defence of Canada or any state allied or associated with Canada or the detection, prevention or suppression of subversive or hostile activities that was obtained in confidence from the government of a foreign state or an institution thereof or an international organization of states or an institution thereof, unless the Government, organization or institution consents to the transfer of the record to the Archivist.

This is clearly giving to foreign bodies the opportunity to make a decision that should properly be made in Canada by the archivist. Again, the wording is much too sweeping. It includes far too many things that might be very legitimate and important matters to have in our records.

I want to raise a couple of concerns in other areas as well. I will be very brief, but I do want to flag one other trouble spot that I hope will be addressed positively in committee, namely, the disposal of ministerial records. Canadian legislation has been quite backward in this respect. It is not as good as French, American, British, and I dare say the legislation of many other countries, in requiring Ministers to leave their records behind. Ministerial records are part of the political history of the country. It is quite proper that the Canadian public through the archives should have access to this material. It is quite important for scholars, as they reflect and go through the making of decisions that affect all of our lives, to have access to material.

Under the current wording of this preservation of ministerial records there are loopholes. Political records seems to be there in a very broad definition. One wonders how one could escape having political records of a Minister in the archives. So many things Ministers do are political or have a political component. It certainly leaves the area open to abuse. Too many things could be defined as political and then exempted from preservation in the Archives. It might be legitimate for some personal records to be kept separate. But we are aware of some boondoggles.

Ministers and other important personages manage to give their records to the Archives and then get an income tax deduction for the gift. That is something we do not want to see. If the records are ones that were made in the course of public business, they should never be considered the personal property and the prerogative of the Minister. This happens with other people as well who give such material to the Archives. Records of this type should be considered public property all along. That is an area we would want to see corrected.

The last area that I want to raise as a problem is in the nature of personal records. It seems that there will be a very blanket exemption of personal records, yet this includes matters that even quite properly could be used for research purposes in due course. I refer to one important example already given, records of juvenile delinquents. Records would not be available even for scholarly purposes even 50 years after the fact. Scholars have developed ways of handling these questions of having access to personal data by simply not permitting any personal references in their scholarly works. The material is quantified but access is permitted so we can understand and research social and economic problems. All