

Received via email: 11 Mar 08

Dear James

As requested I attach my evidence to the review, along with two published papers that are referred to in the body of the text. If you require any further information please do not hesitate to contact me.

with best wishes

Michael Moss

*The Hutton Inquiry, the President of Nigeria and What the Butler Hoped to See**

In her fourth Reith lecture delivered before 9/11 and the events leading up to the war in Iraq, Onora O'Neill discussed transparency and trust in the ever-encroaching digital environment where communications have become less formal and as a result the content much more difficult to verify. With remarkable perceptiveness, she concluded:

Of course, even if all informed consent were given in the light of good and trustworthy information, those who consent can get things wrong. They may choose flimsy socks and boring videos, they may marry philanderers and embark on university courses with which they cannot cope. There are no guarantees. But informed consent can provide a basis for trust provided that those who are to consent are not offered a flood of uncheckable information, but rather information whose accuracy they can check and assess for themselves. This is demanding.¹

Commenting on the findings and evidence presented to the inquiry by Lord Hutton into the death on 17 July 2003 of Dr David Kelly, the weapons expert, she observed that to re-establish such trust required government and the press to do some very boring things. She added that 'procedures for securing a good level of accuracy are typically embedded in professional and institutional processes'.² The inquiry provided a unique and disturbing insight into the processes and working methods of the government of Tony Blair. For the first time British government documents were made publicly available within weeks of their creation and not after thirty years or longer in the Public Record Office (now the National Archives).³ Moreover, Hutton took the innovative decision to post all the documents, not considered to jeopardise national security or disclose personal details, on the web and, even where they did, he made their existence known. This was an extension in the digital environment of the procedures of Lord Scott's inquiry into arms for Iraq, indeed their terms of reference were remarkably similar. Hutton, like Scott, was to have unfettered access to government

*The author is grateful to Lord Robin Butler, Dr James Currall, Sir William Kerr Fraser, Claire Johnson, Baroness O'Neill and Professor Seamus Ross for their comments. He would like to thank Baroness O'Neill also for permission to quote from her Reith lectures.

1. Onora O'Neill, 'Trust and Transparency', BBC – Radio 4, Reith Lectures (2002), 5, available at <http://www.bbc.co.uk/print/radio4/reith2002/lecture4.shtml?print>.

2. Onora O'Neill, 'Accuracy, Independence and Trust', in W.G. Runciman (ed.), *Hutton and Butler Lifting the Lid on the Workings of Power* (Oxford, 2004), 94.

3. Hutton Inquiry web site at <http://www.the-hutton-inquiry.org.uk/content/>

documents and could expect co-operation from the media.⁴ The publication of government records within the thirty year closure period and the disclosure of the existence of sensitive documents, where the closure period could well be longer, exposes current government record-keeping practices to scrutiny as never before.⁵ It does not, as some commentators have suggested, serve as harbinger for the Freedom of Information Act (FOI), which became law on 1 January 2005, as most of the documents would have remained closed on grounds of national security.⁶ It does, however, raise concerns about government record-keeping procedures at the highest level, which may well be echoed in files released under FOI. Before the Hutton Inquiry the parliamentary ombudsman, Sir Michael Buckley, had already drawn the attention of the select committee on public administration to shortcomings in record keeping.⁷

In its recent consultation document on the proposed national records and archives legislation published before these events, the National Archives stated the truism that 'good record keeping' is 'an essential component of policy making, efficiency, accountability and transparency in government'.⁸ In his report on weapons of mass destruction, Robin Butler rebuked the government for discussing policy without the availability of papers by officials or any material on which participants could get briefing or which they could consider in advance of the meeting:

We do not suggest that there is or should be an ideal or unchangeable system of collective Government, still less that procedures are in aggregate any less effective now than in earlier times. However, we are concerned that the informality and circumscribed character of the Government's procedures which we saw in the context of policy-making towards Iraq risks reducing the scope for informed collective political judgement.⁹

The editor of the *Financial Times* had no doubt that, carefully worded as this paragraph was, it scored a 'palpable hit'.¹⁰ Although Butler did

4. Anthony Barker 'The Inquiry Procedures', in Brian Thomson and F. F. Ridley (eds.), *Under the Scott-Light: British Government Seen through the Scott Report* (Oxford, 1997), 1–8.

5. Neither the Grigg nor Wilson committee, which reported in 1954 and 1981, respectively, properly reviewed current practice but focused on the procedures for appraisal and transmission; see Michael Moss, 'Public Record Office: Good or Bad?', *Journal of the Society of Archivists*, vii, no. 3 (April 1983), 156–66.

6. Freedom of Information Act 2000, chap. 36.

7. *Third Report of the Select Committee on Public Administration*, HC 448 (2002–3), available at <http://www.parliament.the-stationery-office.co.uk/pa/cm199798/cmselect/cmpublicadm/398-vol1/39802.htm>

8. 'Proposed National Records and Archives Legislation', CP03/01 August 2003, 8. This may be so, but much political theory is remarkably silent about this aspect of accountability.

9. *Review of Intelligence on Weapons of Mass Destruction, Report of a Committee of Privy Counsellors*, HC 898 (London, 2004), 148. This is commonly referred to as the Butler Report after the chairman Lord Butler of Brockwell, a former Cabinet secretary, and is cited as such hereafter.

10. *Financial Times*, 15 July 2004, 18.

not directly criticise current record-keeping practice within the Cabinet Office, Jonathan Powell, the Prime Minister's chief of staff, had already admitted as much almost a year before when he was questioned before the Hutton Inquiry on 18 August 2003. In responding to a question about minutes of meetings, he replied:

Yes, I thought I might be asked that question because it may seem odd to people from outside, so I looked through the diary for the two weeks of the period we are talking about and the usual pattern is about three written records for 17 meetings a day is sort of the average you get to because there is no purpose served by minutes unless they are either recording people visiting from outside, the president of Nigeria, or something like that, or if they are action points that need to be taken forward, something on school funding for example.¹¹

This startling statement implies that these practices do not just apply to Iraq but across the whole range of Cabinet activity. Powell went on to admit that e-mails 'that people sent to each other after meetings' were effectively the only record. The editor of the *Times* interviewed on the BBC Today programme after the publication of the Hutton report wondered how the Cabinet Office had become effectively an electronic office without apparently adequate record-keeping procedures.¹² This state of affairs seemed 'odd' not just to outsiders, but also to Butler, other previous Cabinet secretaries and even to the present Cabinet secretary, Sir Andrew Turnbull, who has made it known that minute taking has now been re-introduced.

Although Powell was able to produce relevant e-mails, he was forced to confess that no one was responsible for logging (registering) transactions so that, as Butler discovered, members of the Cabinet and senior Civil Servants had no means of knowing if they had taken place. This is corroborated by the absence of any file references whatsoever on the documents submitted by government to the inquiry with the exception of the daily journal references on a few documents, for example those written by Sir Kevin Tebbit, permanent secretary of the Ministry of Defence, and Sir David Omand, permanent secretary in the Cabinet Office. It is not difficult to deduce that D/PUS/12/3(278) at the top of the Hutton reference CAB/1/0010-0016 translates as Defence, Permanent Under Secretary volume 12, 2003, item 278. These journals made up of third copies, effectively letter books, have been kept for over a hundred years by clerks in senior Civil Servants' offices for reference and do not equate to registered files. A small number of documents are specifically marked as not to be filed, for example the *aide-mémoire* of

11. Hutton Inquiry web site, Hearing Transcripts, Monday 18 August 2003, morning, para. 95.

12. BBC *Today* programme, 24 January 2004, 7:33 a.m.

'meetings at which I was present' written by John Scarlett, then chairman of the Joint Intelligence Committee (JIC), to Jonathan Powell on 21 July 2002 (Hutton reference CAB/11/0004). This records the meeting that Scarlett attended which discussed the very sensitive issue of how to handle the release of Dr Kelly's name as the source of the BBC reporter Andrew Gilligan's information. It ends portentously with a note on a meeting, at which Tony Blair was present, at 13.30 on 8 July, 'If Dr K name becomes public will Government be criticised for putting him under "wider pressure"'. The fact that the *aide-mémoire* was marked 'not for file' was presumably on security grounds, but this in itself raises other questions about the organisation and the perceived security of the Cabinet Office. Subject headings on e-mails, which were submitted in evidence, were not always filled in and only the context provides any clue as to what they might conceivably be about. At face value there can be little confidence that these, often highly revealing, e-mails would ever have been filed. This is not to say files do not exist, they must, but critical documents will be missing, as Butler observed, and since they were not logged or minuted in the first place there will be no way of knowing if they ever existed, unless the internal evidence of other documents suggests as much.

This lack of discipline in the use of e-mail is in stark contrast to the commitment to e-government which is directed from within the Cabinet Office. The *e-Government Policy Framework for Electronic Records Management*, published in 2001, drew attention to the failure to archive e-mail messages.¹³ It went on to declare:

A failure to manage electronic documents and transactions as formal corporate records will mean that significant opportunities are lost, for exploiting the content to support new ways of working with faster access to higher quality and up-to-date information.

Potential benefits were reported to include better and consistent development and stewardship of corporate memory, collaboration across workgroups and enterprise, greater access to corporate information, improved public services and service quality, and managing information as an asset, encouraging its collection, dissemination and sharing. Although it was acknowledged that there was little infrastructure to deliver such gains in 2001, it was considered essential for electronic records management systems (ERMS) to be incorporated in 'all areas which may potentially generate information that should be captured for evidential and accountability reasons'. A target date for implementation was set for December 2003.¹⁴ The commitment to address the

13. *e-Government Electronic Records Management*, second version 2001, available at <http://www.e-envoy.gov.uk>.

14. *Ibid.*, 6, 9 and 24.

problem could not have been spelled out more clearly and yet on the evidence of both the Hutton Inquiry and the Butler Report little has been done.

This is all the more astonishing when it is well known that e-mail leaves far more traces than a confidential internal memorandum, a letter or even a device to device (mobile) telephone conversation. Invariably copies are stored either locally on the author's own workstation or centrally on a server and copies will also be resident on the recipient's workstation or server and may even be held in cache (intermediate or buffer file store). Simply pressing delete does not necessarily delete them even on a desk top and procedures need to be put in place to ensure complete destruction, which can be verified by an independent third party (auditor), if that is deemed appropriate. Moreover, unknown to most users there are system logs which record what messages were sent by whom, to whom and when, which would also need to be deleted if all references to the transaction were to be expunged. E-mails were used by the New York attorney-general, Eliot Spitzer, to uncover abuses on Wall Street by showing for example that Henry Blodget of Merrill Lynch had described as 'a piece of shit' a company that the investment bank publicly recommended. The *Financial Times* in an article 'Haunted by e-mail', commenting in part on the likely outcome of the Hutton Inquiry, cited this and other cases and concluded by advocating a return to paper documents as they can 'be burnt'.¹⁵ The proper response should be for the Cabinet Office to put in place the procedures and protocols in its own policy framework.

For historians familiar with using modern government files, it is extraordinary that on the evidence presented to Hutton, only two drafts of the dossier, 'Iraq's Weapons of Mass Destruction—The assessment of the British Government', published on 24 September 2002 and the basis for the declaration of war, were submitted (although the e-mails suggest that there were many more).¹⁶ It is possible that the dossier was created by exchanging electronic copies in which changes were not tracked but that is unlikely. Modern government files are littered with drafts and redrafts of such policy statements and memoranda, not just on those of the sponsoring department but on those of cognate departments and, where appropriate, law officers. This has allowed historians to reconstruct the nuances of events in considerable detail. Without such meticulous record keeping, it would, for example, have been impossible for Edwin Green and Michael Moss to have analysed the precise sequence of events surrounding the collapse and reconstruction of the Royal Mail Shipping Group in the 1930s, the United Kingdom's largest corporate

15. *Financial Times*, 24 January 2004, 10.

16. See <http://www.the-hutton-inquiry.org.uk/content/evidence-lists/evidence-dos.htm>.

exposure.¹⁷ There are many other examples right across government. It is to be hoped that when the files relating to the dossier are finally released, there will be more evidence to show just how it was compiled and the precise nature and timing of the reservations of the security services. By then it may be too late and the public needs reassurance now that established patterns of record keeping are being observed and, if they are not, that they are being reinstated. Little comfort can be drawn from the Butler Report, whose members presumably read such documentation as there is.

The British Civil Service used to pride itself on the infallibility and trustworthiness of its record keeping. Sir William Harcourt, Home Secretary from 1880 to 1885, described the registry, where papers were referenced and docketed, as ‘the mainspring of the office’.¹⁸ Sir Charles Cunningham, when he moved from the Scottish Home and Health Department to the Home Office in 1957, was written to by a distinguished member of the public. Following his Edinburgh practice, he handed the letter to a senior colleague and asked him what he would do with it. ‘I would have it registered and brought up on a file’, came the reply.¹⁹ Apart from providing an accurate journal of transactions and thereby precedent, the registry also protected the impartiality of Civil Servants as the records were managed by registry clerks who were expected to act fiducially. There were elaborate safeguards to ensure that this was the case: documents and later files had to be signed in and out, papers could only be added to a file or docket by an authorised registry clerk, and all those who consulted a file or docket had to initial it. Such arrangements represented the classic distinction between the front and back office and the security it affords. The failure to recognise its importance led directly to the collapse of Barings, the London merchant bank in 1995.²⁰

In the early part of the twentieth century, a familiar combination of mechanisation, improved transportation and a ‘wonderful increase in the means and the speed of communications’ called for ‘radical changes in office methods’.²¹ The Treasury registry was completely overhauled and manila files introduced, which were held together with ‘Treasury tags’ (strips of loosely braided threads closed at each end with metal cylinders). The new system was explained in a memorandum written in 1909 by the permanent secretary

17. Edwin Green and Michael Moss, *A Business of National Importance: The Royal Mail Shipping Group, 1902–1937* (London, 1982).

18. *Secnd Report of the Royal Commission on Civil Establishments* (1888), *Minutes of Evidence*, xii, 195.

19. Letter from Sir William Kerr Fraser to the author, 18 September 2004.

20. *Report Of The Board Of Banking Supervision Inquiry Into The Circumstances Of The Collapse Of Barings*, 18 July 1995, available at <http://www.numa.com/ref/barings/baro3.htm#13.13>

21. Edward A. Cole, *Filing Systems* (London, 1913), 5–6.

himself, Sir George Murray, which laid down simple unambiguous procedures:²²

The papers in the file *should be arranged in chronological order* beginning with the letter, minute, or other documents which originated the file, together with its enclosures if any.

Only papers which it is necessary or desirable to keep permanently on the file should be treated in this way. Other memoranda or enquiries should be written on separate pieces of paper, which should be detached immediately when they have served their purpose.²³

This methodology, with supporting hierarchical filing schemes and numeric codes, was quickly adopted across the whole Civil Service and imposed on imperial and colonial governments. Each department of government was left to devise a system best suited to its needs.²⁴ The introduction to the filing scheme of the Government of Zanzibar (a British dependency) in 1914 stipulated that:

Each subject is allotted one file and one number. Inward and outward letters belonging to a particular file bear the number of that file, the date being the distinguishing factor.²⁵

Correspondence, whether in the nature of minutes or letters, is arranged in files in chronological order from left to right after the fashion of a book and each minute, letter, etc., is numbered in a continuous series for convenience of reference . . .

To keep track of correspondence a daily register is kept of all incoming and outgoing communications, and a main register for the files, the system being based on book-keeping by double entry.

The filing scheme was split into three sections treated alphabetically: internal economy, external relations, and trade and commerce. Section 1 began with Administration General under which was the Crown Agents, followed by districts and towns, all with their own numerical codes. The handbook was indexed so that clerks could look up the

22. A copy can be found in the National Archives (TNA) at T199/90 Committee on Treasury Registry Report.

23. It was understood that great care had to be taken when deciding not to register papers, because they would be 'not always freely accessible to others having a legitimate interest in them'. National Archives of Scotland, SOE 4/65, Review of Registry Services by Organisation and Methods Division of HM Treasury, February 1961, 5.

24. *Ibid.*, 2.

25. *Government of Zanzibar – Classification and Filing of Correspondence* (Zanzibar, 1914); a copy is to be found in the British Library.

correct codes and apply them when composing or receiving documents. In 1919 Sir Warren Fisher, the newly appointed permanent secretary of the Treasury and head of the Civil Service, ordered a review of the registry by W. T. Matthews. In his report, he described its workings in detail, explaining for example that the post-clerks stamped each letter with a 'registration number and post details in a Register'.²⁶ He reminded Fisher that the attention of 'Treasury staff should be drawn to the fact that the Registry is the proper place for the custody of papers not in action. The present tendency to hoard registered papers should be corrected'.²⁷ If these practices had still been in place in the Civil Service in 2002–3, it would have been impossible for Powell to respond as he did to the Hutton Inquiry.

It is perhaps not surprising that the Cabinet secretariat was overhauled after Lloyd George succeeded Asquith as Prime Minister in December 1916. Familiar with Treasury practice as Chancellor of the Exchequer, he had insisted on meticulous filing at the Ministry of Munitions from 1915 to 1916 to enable rapid decision taking. A new registry system was introduced for the War Cabinet in 1917 mirroring established practice elsewhere in the Civil Service, but with more elaborate indexing to facilitate retrieval.²⁸ After the war, as a consequence of reduction in government expenditure, the number of registry clerks and indexers in the Cabinet Office registry were cut and filing suffered. By the 1930s staff had come to rely, as Hastings Ismay, then deputy secretary of the Committee of Imperial Defence, put it on the 'prodigious memory' of Sir Rupert Hepworth, a member of the Cabinet secretariat, to help them out.²⁹ In reviewing current arrangements Ismay noted that minutes of subcommittees were not indexed but, tellingly in the context of the Butler Report, pointed out that since their decisions came to the full Cabinet they could be traced through the main Cabinet index. Hepworth supported the plea that the indexing system should be 're-organised on a wider and more comprehensive basis', but cautioned that the 'whole subject is one of great difficulty and complexity' with 4,000 papers a year to be filed and indexed.³⁰ In preparation for war the then Cabinet secretary, Edward Bridges, together with Ismay pushed through changes, including more elaborate indexing. When war was declared the possibility of establishing a 'secret office system' within the Cabinet Office for sensitive documents was discussed, but not adopted on the grounds of cost. Instead a system was put in place where 'documents of a particularly secret nature, but which on the other hand ought to be recorded in the Registry' were specially

26. A copy can be found in TNA T199/90, *op. cit.*

27. *Ibid.*, Matthews to Fisher, 1 December 1919.

28. TNA, CAB 21/2387, memorandum A. G. Banks to Colonel Ives, 1937.

29. *Ibid.*, Ismay to Hepworth, 12 August 1937.

30. *Ibid.*, Hepworth to Ismay, 14 October 1937.

‘indicated’.³¹ With such an arrangement in place there would have been no reason for John Scarlett to indicate that his *aide mémoire* should not be filed and it is almost inconceivable that he would have had the temerity so to direct Churchill and his staff.

Immediately after the war an interdepartmental study group reviewed registry systems in the light of the growth of business.³² Their methods of working were left largely undisturbed with the exception that decentralised registries could be introduced to deal with ‘the flow of business’. Their purpose was restated:

(1) The provision of advice leading to the formation of policy, based on law and precedent.

and

(2) the execution of policy, which may entail calling for information, money, services etc. and the answering of questions, whether for the public, Parliament, Ministers or other civil servants.³³

Efficient registries are the foundation of the system of review of government records for permanent preservation recommended by the Grigg Committee enshrined in the 1958 Public Records Act.³⁴ Since it was recognised that ‘management often fails to pay adequate attention to their work’, they were regularly scrutinised by the Treasury’s Organisation and Methods Division, which had its origins in this very function in 1919.³⁵ The files that are open under the thirty-year rule indicate that such detailed reviews were being regularly conducted in the late 1960s. Sir William Kerr Fraser, who rose to become permanent secretary in the Scottish Office, recalls being shown over the registry when he joined the office in the early 1950s and being taught ‘how to record the receipt of a piece of paper, allocate it to a file, number it and align it so that the two holes exactly corresponded to the position of the immediately preceding paper!’³⁶ A Home Office guide published in 1976 provided just this sort of practical advice.³⁷ It is to be presumed from his criticisms that registries in the Cabinet Office and elsewhere in the Civil Service were still in place when Butler retired in 1998. If Cabinet committees did not discuss the ‘excellent quality papers written by officials’ and if there were no minutes of many meetings and e-mails

31. *Ibid.*, S. P. Stanley to Leslie Hollis, 17 October 1939, and memorandum, 12 October 1939.

32. The file relating to this review (TNA FO366/1970) was recalled by the Foreign Office, where it is closed to public access.

33. NAS SOE 4/65, *op. cit.*, 1, 3, and 7.

34. *Grigg Report*, July 1954, cmd. 9163.

35. Henry Rosevere, *The Evolution of a British Institution: The Treasury* (London, 1969), 246.

36. Sir William Kerr Fraser to the author, 18 September 2004.

37. *Introduction to Filing and Letter Writing in the Home Office* (ISBN 0903727404), 1976, available in the British Library.

were not 'registered' then it is very hard to understand how there can be any collective responsibility for decision taking either over the war in Iraq or other areas of policy making, as Butler implied.³⁸ It is not enough simply to blame 'spin' and an informal back of an envelope style of doing business for the destruction of procedures which gave the public confidence in the process of government through the accurate recording of the evidence on which decisions of whatever sort were taken. Although they are contributing factors, it is a mistake to believe they are the underlying cause, which must lie in the wider phenomena of profound changes in record creation and retention that can be observed elsewhere in the world.³⁹ New technology gives the beguiling impression that information can be managed and retrieved much more cheaply, securely and effectively than before in much the same way as it did almost a hundred years ago. Word processing packages, e-mail systems and networked PCs are a fatal combination, leading the creators of documents (the front office) to believe that, not only do they not need registries, but they can also do away with the Miss Moneyppennies without bothering to enquire what they did apart from type and file documents. Such expectations have focused training on how to use the technology (Microsoft's most recent updates) rather than how information should be managed to fit its purposes (for example the objectives spelled out in the 1945 review) and how that can be enabled by the new technology.

Managers in both the public and private sectors, provided with such facilities, began to type their own letters and papers without writing them out or dictating them to their secretaries to type and reference, forgetting that the very act of producing a draft, not only allowed time for reflection, but also itself safeguarded their fiduciary position. More often than not, if they keep copies at all, they archive (store) them either locally on their own PC or on a server in so-called files that bear little relation to the well-structured registry files series or even daily journals. Outsiders brought into the Civil Service, particularly to the Cabinet Office often as part of a modernising government agenda, have little experience of public accountability and regard established processes to meet this vital obligation as overly bureaucratic and obscurantist. As Marilyn Strathern has so perceptively pointed out, accountability in an audit sense does not equate to responsibility.⁴⁰ Despite the lessons that should have been learned from the Baring crisis, there is still a temptation to cut back office functions, as their purpose is not immediately apparent until there is a crisis. This is the burden of the current spending review announced by the Chancellor of the Exchequer, Gordon Brown, in his

38. *Butler Report*, 147–8.

39. The DIRKS methodology – a users guide, section 1.1, available at <http://www.naa.gov.au/recordkeeping/dirks/dirksman/part1.html#bgt>

40. Marilyn Strathern, 'Abstraction and decontextualisation: an anthropological comment on: e for ethnography', 2000, available at <http://virtualsociety.sbs.ox.ac.uk/GRpapers/strathern.htm> (March 2005).

2004 budget.⁴¹ The disadvantage of registries, like all systems designed to separate the front and back offices, is that they are expensive, as senior Civil Servants were well aware at a time of economic stringency in the inter-war years. When departmental budgets are under pressure and there seems to be an attractive alternative, it is easy to overlook Harcourt's aphorism and agree to abandon registries in favour of only half-developed technologies. As a consequence senior managers became disengaged from the process of record keeping probably because they were led to believe that they would be unable to understand the new technology. Decision taking was left to so-called information professionals (often trained on the job) who had little if any appreciation of the fiduciary nature of the obligations they were undertaking. Permanent secretaries do not appear to have taken the same lead in reviewing current information systems as their predecessors did in reviewing registries. It has been left to the National Archives (formerly the Public Record Office) as the institution responsible for preserving fiduciarily the national historical record to try to mandate procedures for which it has no statutory responsibility.⁴²

Reassuringly in 2002 the Public Record Office laid down unambiguous policy for the retention of records born digitally such as the plethora of e-mails submitted to the Hutton Inquiry.⁴³ They are to be declared (registered) as 'formal electronic records' and assigned to a folder (file).⁴⁴ The process of capture (registration) of a declared record must retain 'the relationship between its constituent components', along with any associated metadata (catalogue information if you will) and in the case of files any appended documents.⁴⁵ This is Murray's 1909 memorandum rewritten for the digital age. In the case of e-mails the PRO guidance lays down that an ERMS must prevent alteration to the body of the text or transmission details with the exception of the 'subject line', which can be changed to be consistent with folder titles.⁴⁶ The fact that subject lines in the e-mails submitted to Hutton have neither seemingly been changed, nor at times even been filled in, suggests that none of these documents had been declared by the time of the inquiry. It would be charitable to believe that in Matthews' word in 1919 they were being 'hoarded' unnecessarily. Following the Scott Inquiry, none of the departments involved can have been unaware of the evidential value of good record keeping in sensitive policy areas and the likelihood of external scrutiny before public release. It could be argued that, since nearly all the evidence submitted to Hutton was born digitally,

41. see http://www.hm-treasury.gov.uk/budget/budget_04/bud_budo4_index.cfm.

42. 'Proposed National Records and Archives Legislation', *op. cit.*, 17.

43. *Requirements for Electronic Records Management Systems* (Public Record Office, 2002), available at <http://www.nationalarchives.gov.uk/electronicrecords/reqs2002/pdf/requirementsfinal.pdf>.

44. *Ibid.*, para A2.12.

45. *Ibid.*, para A2.8.

46. *Ibid.*, para A2.17.

accompanying metadata exists which allocated the letters and e-mails to folders (files) and indexed them and that a decision was made to omit it. This seems implausible, as why in that case do the daily journal references appear on Sir Kevin Tebbit's correspondence and why did a great deal of time and effort have to be spent on marking out by hand elements in the e-mail headers (a process known in Whitehall as redaction)? – see for example Hutton Inquiry evidence CAB11/0032 e-mail of Mark Matthews to Alison Blackshaw. Surely it should have been possible to do this with a single macro-command (global instruction) properly supervised by a court official from the Lord Chancellor's department. Even if metadata does exist, file references should appear on the face of a document, as it did in the past, so that it can be located in the appropriate series (held either physically or electronically), particularly as in a hybrid world (of electronic and paper transactions) physical surrogates can easily become disconnected from the electronic original.⁴⁷

Legal advice suggests that if a record is born digital (for example typed on a personal computer) then the digital is the original and must be preserved. There are advantages in digital storage but the functionality of a digital environment can only be fully exploited if the content is referenced at the point of creation in a way in which the e-mails emanating from the Prime Minister's office were not. This requires not only the creation of a metadata (catalogue) template, which contains more than the references or persistent identifiers which secretaries were accustomed to apply, but also rules for what is entered in the various attributes.⁴⁸ Perversely the Labour government has made large investment in developing tools to deliver web-enabled government, such as the e-Government Interoperability Framework (e-GIF), which includes a Metadata Standard (e-GMS) defining the form and content of elements to be used across the public sector.⁴⁹ The most problematic entities in any metadata schema are keywords and subject headings, which were resolved in the past by hierarchical file series with numerical codes, explained in guides such as that for the Government of Zanzibar in 1914. The discussion of e-GMS in the interoperability framework makes no mention of the provision of such tools, today usually referred to as controlled vocabularies.⁵⁰ The Cabinet Office, however, has the subject under review in a Thesaurus Working Group.⁵¹ There are those who argue that electronic documents do not need to be organised or indexed in such a rigid fashion and can somehow enjoy an independent

47. *Introduction to Filing*, 20, states that Home Office practice was to include the date and reference on any communication.

48. Systems for applying persistent identifiers to electronic objectives are being investigated by the Erpanet (<http://www.erpanet.org/>) and the Digital Curation Centre (<http://www.dcc.ac.uk/>)

49. *e-Government Interoperability Framework*, Version 6.0 30 April 2004, available at <http://www.govtalk.gov.uk>.

50. *Ibid.*, 17.

51. see http://www.govtalk.gov.uk/schemasstandards/metadata_document.asp?docnum=872.

existence.⁵² They will be discovered by using search engines, such as Google. This is, however, only possible if both the semantic and technical metadata are sufficiently robust to allow them to be attributed unambiguously to the correct sequence in a series just as before. Judges, such as lords Hutton and Scott, and historians, want their evidence to be beyond reasonable doubt, they do not want it to be drawn as it were from a lucky dip. Whichever approach is adopted the addition of the crucial metadata can only be automated up to a point. Technical elements such as date and time, device used, size of the bit stream (the binary code) can be derived without intervention, semantic elements are more problematic. Authors need to identify themselves uniquely, confirm the type and status of the document and crucially ascribe subject headings and keywords, even if these are subsequently changed or redacted. This is time consuming and as a result expensive and militates against the seductive simplicity and cheapness of the new technology. The lesson from projects that have investigated this issue, is that users will only be prepared to adopt such conventions if they can see clear value added to themselves in terms of their business processes, which includes compliance with regulations.⁵³ This demands radical re-engineering not simply the slapping of a digital framework on the top of existing process as the government's interoperability framework seems to imply.

The intervention of records managers or archivists in record creation, implicit in initiatives such as the National Archives ERMS and the National Archives of Australia DIRKS methodology, raises important questions about the fiduciary responsibility of the record keepers. In the past, passing a document for retention in a United Kingdom government registry guaranteed authenticity through the process in which it was embedded, which was mandated by the most senior executives. The transfer itself clearly divided the front office where transactions take place from the back office where they are logged. If records managers are party to the creation of the records as well as to their curation, is it possible for them to fulfil their fiduciary responsibility without compromise? The evidence of systemic failure in record keeping at the highest level in government in the United Kingdom more than suggests that the National Archives issued guidance on digital record preservation by default. This needs to be investigated and not simply left to the six paragraphs in the Butler Report which consider the machinery of

52. Alistair Tough and Michael Moss, 'Metadata, Controlled Vocabulary and Directories: Electronic Document Management and Standards for Records Management', *Records Management Journal*, xiii, no. 1 (2003), 24–31.

53. See for example the JISC-funded Effective Records Management project at the University of Glasgow, <http://www.gla.ac.uk/InfoStrat/ERM/>, Piers Cain and Laura Miller, 'The Implication of Electronic Records', available at <http://www.acarm.org/documents/implications.pdf> and the records of the Pittsburg project, which can be found at http://web.archive.org/web/*/www.sis.pitt.edu/~nhprc.

government.⁵⁴ Before these dramatic and revealing events the National Archives had already issued a consultation paper on proposed national records and archives legislation. Its stated purpose was 'to canvass opinion from all in the United Kingdom who have an interest in the process of keeping and managing records in the public sector, their creation, use and disposal'.⁵⁵ The presumption behind the consultation was that 'records management and archives are two sides of the same coin and should be treated together'.⁵⁶ The first statement is incontestable but the second raises fundamental questions and represents a significant shift in practice which cannot be left to go by default.

It is very difficult to believe that a long line of permanent secretaries to the Treasury and Cabinet secretaries would have agreed to allow the National Archives or any other third party to manage their registries. The National Archives, even if supported by statute, is hardly in a position to insist that e-mails between ministers, their political advisers and senior Civil Servants are registered let alone that minutes are taken of meetings in the Cabinet Office. It would be akin to a supply officer taking command *de jure* in a battle. If public confidence is to be restored in the machinery of government, authority for managing information must continue to reside with the Cabinet secretary, the Head of the Civil Service and other permanent secretaries and be much more explicitly exercised. This is the case in the private sector where chief executives are responsible for good record keeping and can lose their jobs if there is evidence of systemic failure, as happened at the Prudential in 1995. Sir Andrew Turnbull has already made a step in the right direction by insisting that minute taking should be resumed. He will need to go further, ensuring that e-mails are declared (registered) to form part of the record which will eventually be transmitted to the National Archive. Today permanent secretaries or even boards of directors cannot mandate such compliant systems on their own in the way Murray did in 1909. The systems, senior executives and directors require the protection of external scrutiny, which in the private sector and increasingly in NGOs is provided through independent audit committees that weigh up the balance of risk, for example in the decision not to log e-mails, and the members of such committees are personally liable. Even in an era of more open government, it is inconceivable that compliant procedures can be applied uniformly. They simply cost too much. Audit committees will take a view that it is not worth the cost of keeping information, even if required by statute, as there is little risk of anyone wanting access and that records should be destroyed as there may be contingent liabilities arising from their production as evidence in legal actions. After all, 95 per cent of government records never find their way to the National Archives and many of them are destroyed 'after

54. *Butler Report*, 146–8.

55. 'Proposed National Records and Archives Legislation', 8.

56. *Ibid.*, 15.

only five years or so'.⁵⁷ FOI will inevitably require transparency and independent adjudication which will stand up in a court, for such decisions.

If this is the case, it is questionable whether, as the National Archive proposes, that responsibility for the two functions of records management and preserving the written memory of the nation should be vested in the same minister, the Lord Chancellor.⁵⁸ It is even more questionable, given the proposed abolition of the office of Lord Chancellor as head of the judiciary, that this responsibility should be vested in a minister for constitutional affairs. The fiduciary position of the National Archives as guardian of the national memory surely must continue to be guaranteed by the head of the judiciary, the proposed president of the supreme court, as has been done since medieval times, if nothing else than to maintain the essential independence of the judiciary from the government and the executive. It should not be forgotten that one of the duties of the National Archives is to hold the records of courts of law as their fiduciary agents and not the agents of government. This is a critical role and an important safeguard of our democratic freedom. It would be inappropriate for the judiciary to adopt the same role for records management for a number of reasons. In doing so it would inevitably be forced into a quasi-political role which would be unacceptable. It is for the National Audit Office to ensure that compliant systems are in place and are subject to independent scrutiny. There are serious ambiguities in much new legislation affecting records, such as the Data Protection Act and Freedom of Information Act, and in the rules defined by an increasing number of regulatory bodies. This was tragically made clear in the case of Ian Huntly, who murdered two little girls (Holly Wells and Jessica Chapman) at Soham in Cambridgeshire in August 2004, where his previous record of sexual assaults was suppressed as a result of a strict interpretation of the Data Protection Act. These ambiguities will only be resolved in the courts and the judiciary cannot make judgements about its own responsibilities. As seriously, the National Archives will be under pressure to retain records (particularly those relating to individuals) in the national memory which might be destroyed under the terms of legislation and regulations. It is hard to see how the National Archives, as explicitly an executive branch of government, could resolve such disputes, whereas the supreme court could reach a decision in the public interest to retain records, overriding legislation and considerations of contingent liability. In other words the supreme court could instruct its agent to retain and even disclose information in defiance of the government and the executive.

The archivist's responsibility is to provide a balanced record of events irrespective of whether there is any contingent risk in preserving the records; that is not for them to judge. Archivists have the additional

57. TNA, op. cit., 20.

58. Ibid., 28.

responsibility of preserving the records fiduciarily to ensure that they cannot be altered, tampered with or destroyed except as a result of an explicit instruction from the appropriate authority and sometimes to defy such instructions if they deem them not to serve the national interest. In his inaugural lecture for the archive course at University College London in 1947 Sir Hilary Jenkinson succinctly described the attributes of the archivists (he lived by capital letters in the male gender), 'His Creed, the Sanctity of Evidence; his Task, the Conservation, of every scrap of Evidence attaching to the Documents committed to his charge; his Aim, to provide, without prejudice or afterthought, for all who wish to know the Means of Knowledge'.⁵⁹ In a democratic society these are crucial responsibilities in the process of holding government to account or responsible, even if that cannot happen for a long time after the events on the grounds of national security.⁶⁰ Historians, in scrutinising the actions of government and in analysing the impact of government policy, will quite rightly, as Jenkinson emphasised, demand access to as a complete a set of records as practical. Although they often want more to be preserved than archivists judge necessary, in the case of a major event, such as the declaration of war on Iraq, there would be no question that all the records from all the departments involved would be preserved in the 'nation's memory'. With the emphasis in the British constitution on collective responsibility in decision making, the records of the Cabinet have occupied a pivotal position since it began to coalesce in the eighteenth century. The recent adoption of a presidential style by Prime Ministers has made Cabinet Office records even more critical in securing the archival record of government, as is all too evident from the documents submitted to the Hutton Inquiry and the findings of the Butler Report. The National Archives, as fiduciary guardian of the national memory, has a paramount duty to ensure that the flow of records from the Cabinet Office matches the expectations of a democratic society. It is for senior Civil Servants to remind ministers of their constitutional duty to account for their actions by providing an effective audit trail through the careful recording of the decision making process. The evidence submitted to the Hutton Inquiry, taken together with Butler's findings, gives such serious cause for concern as to demand a fresh inquiry into government record keeping before a new Public Records Bill or, as some commentators have proposed, a Civil Service Bill is introduced. As O'Neill so tellingly reminded us, the provision of quality information is demanding and boring. It requires an attention to detail which the events surrounding the war in Iraq suggest is sadly lacking on both sides of the Atlantic.

University of Glasgow

MICHAEL MOSS

59. Sir Hilary Jenkinson, 'The English Archivist: A New Profession', *Selected Writings of Sir Hilary Jenkinson* (Gloucester, 1980), 258.

60. 'Proposed National Records and Archives Legislation', 3.



Archivist: friend or foe?

Michael Moss

*Humanities Advanced Technologies and Information Institute,
University of Glasgow, Glasgow, UK*

Abstract

Purpose – This paper sets out to explore the relationship between archives and the management of records, which are increasingly the product of the audit society, informed by a neo-liberal agenda.

Design/methodology/approach – The article is based on the author's views.

Findings – It argues that there is no relationship between the two activities, except of the records themselves.

Originality/value – This article will be of interest to those interested in the archiving of records and its management.

Keywords Records management, Archiving, Historical research

Paper type Viewpoint

Some history

In the French and German archive traditions there is a clear distinction between the creation of the record and its selection or privileging for permanent preservation. From this perspective the activity of transferring the record to the archive is considered not as a continuation of records management but as a quite separate and explicit function in creating the “memory of a nation”, an organization or a community, in which the archive moves from a private to a public sphere[1] (Cox, 2002). The concept of a public archive (*cimiliarchio publico*) is deeply embedded in western culture dating back to classical times and gained renewed legitimacy during the French Revolution[2] (Clanchy, 1977; Gharsallah, 2005). In this context the archive enjoys an independent fiduciary function where records are preserved for the benefit of the community, which has rights of access, and users can have confidence that when they consult them they are what they purport to be, at least what they purported to be when they were selected for permanent preservation. Information management has its origins in the need for centralising bureaucracies to be able to retrieve essential documents expeditiously and were, paradoxically, often called archives, even though they were part of the *arcana imperii* (secrets of state) (Burke, 2000). This is the European tradition in which the writings of Sir Hilary Jenkinson, the founder of archive theory in the UK, sit (Jenkinson, 1925).

Today in the Anglophone world (North America, Australasia and the UK) records management and archives are regarded as one and the same and the juridical function of the archive has been questioned[3] (McKemmish and Ackland, 1998; McKemmish, 1999). In the US this came about as a result of administrative tidying up of the 1947 Hoover Commissions on the Organization of the Executive Branch of Government that

The author explores the issues discussed in this article further (Moss, n.d.). A French version of this paper can be found (Moss, 2005b). He wishes to thank James Currall, Tina Fiske, Craig Gauld, Gemma John, Susan Stuart, Alistair Tough, Sarah Tyacke and Verne Harris for their help and thoughts on the ideas developed in this paper.



was designed to reduce waste, and more recently in Australasia as a consequence of scandals laid at the door of poor record keeping which, in the words of the Commonwealth Auditor General of Australia, “attracts corruption like flies to a carcass”[4] (McCoy, 1978; McKinnon, 1994). Increasingly, records management programmes are used to justify the retention of an historic archive, and partly out of a belief that unless the records manager and or archivist are/is engaged in the process of creation, long-term preservation (particularly in the digital environment) cannot be guaranteed. There are two polarised camps with neither side being willing to explore the theoretical assumptions of the other or to consider whether there are external threats, which have been drawn into sharp relief in the wake of 9/11, that might invalidate their own[5] (Pemberton, 1996; Cook, 2000).

Records . . .

While it is undoubtedly true that the record or document is a constant (but not necessarily constant) from the moment of its creation until its destruction or preservation in the archives, the records manager and the archivist are only two of many actors who might influence its form and destiny. A record created within a bureaucracy (a government department, business, university or whatever) will be governed by both external and internal constraints as to what it contains, what it can be used as and for, and how long it can prudently be kept. Records created by individuals are less obviously constrained, even if they relate to activities of these bureaucracies, unless they happen to be libellous or make disclosures that breach their terms of employment as legally enforceable regulations (Harris, 2001). (As we will see, there are insidious threats even to such evidence.) One consequence of the emergence of global companies and markets is the increasing convergence of regulatory regimes which have serious implications for record keeping, particularly if there is any likelihood of records being “discovered” as evidence in legal actions or by regulatory authorities[6] (*The Sarbanes Oxley Act*, 2002; FDA, 2000). Large companies, or even small ones that trade globally, are unlikely to want to have smoking guns among their records. The tightening of governance in the wake of corporate scandals across the world places far greater responsibility to ensure that this is not the case on the shoulders of non-executive directors, who, if malfeasance can be proved, become personally liable (SEC, 2003). If alerted to the danger of the contingent liability of keeping records (evidence), which could have been destroyed as part of due process, their reaction will be to insist on destruction even if the records might be considered for preservation in the archives as a component in our collective memory. This danger is, perhaps, not so great in the public sector, but the threat cannot be ignored. The most popular classes of records among users of public records are those that relate to individuals, such as registers of censuses, births, marriages and deaths. Such personal information in the European community is covered by data protection legislation, even if it is a matter of public record, which may problematize its eventual transfer to an archive[7]. Individuals may expect some classes of such records, for example those relating to criminal prosecutions, to be destroyed when culpability has elapsed. Government may also take the view that contingent liability is such that classes of records should be destroyed, for example health and social welfare case notes.

... and archives

Even if archives result from the records management chain, this suggests that the archive or memory is simply the last stop in our increasingly global audit society where all transactions, not just those with a financial expression, are potentially exposed to scrutiny (Power, 1977). Daniel Miller pointedly commented on the audit or regulatory process:

The paradox is that, while consumption is the pivot upon which these developments in history spin, the concern is not the cost and benefits of actual consumers, but of what we might call virtual consumers, which are generated by management theories and models ... [And] the rise of auditing in Britain [is thus] symptomatic not of capitalism, but of a new form of abstraction that is emerging, a form more abstract than the capitalism of firms dealing in commodities (Miller, 1998).

We might also add government and substitute the world for Britain.

The audit culture and digital environment

This tendency to normalize behaviour can be seen everywhere – 84 percent of trains run on time, 78 percent of students achieve a pass and so on. Only the most primitive subsistence communities can shield themselves from the gaze of auditors with their normalising tendencies, if *Médecine sans Frontières* has provided aid then you can be sure the auditor will not be far behind[8]. If this is true and, I believe it is, then we would do well not to confuse accountability with memory or what Terry Cook calls confusingly, but admittedly from a different perspective, “evidence and memory” (Cook, 2000). It is a truism that audit depends on records, but the records will only reflect what the regulator or auditor wants to know at a given time. This approach has contributed, as the moral philosopher Onora O’Neill has reminded us, to a breakdown in trust between citizens and government and consumers and suppliers (O’Neill, 2002, 2004). When I am sitting for hours in an accident and emergency department in a hospital, I do not find it very helpful or credible to be reminded that waiting times are falling. If what we as archivists preserve are simply the records on which such abstraction is based then we deserve all the criticism that historians can hurl at us. I simply do not buy the nostrum that “the rhythms of each story are the rhythms of the continuum” (Upward and McKemmish, 2001). I want some evidence of me, like Verne Harris, wild and untamed (Harris, 2001). I want to know where Boxer, the hardworking carthorse in George Orwell’s *Animal Farm*, really went to, not what the objectionable pig, Napoleon, led us to believe (Orwell, 1945).

In a very perceptive piece, Marilyn Strathern, a Cambridge social anthropologist, explored this critical audit culture where, as she puts it, the “ought” becomes “is” and things do indeed work backwards, where “the form in which the outcome is to be described is known in advance” (Strathern, 2000). Jacques Derrida warned of such entanglement when he wrote “the technical structure of the archiving archive also determines the structure of the archivable content even its very coming into existence and in its relationship to the future” (Derrida, 1996). This circularity is on the one hand reinforced by the digital, as the processes become faster and because of the way the systems work the “loose ends” (inconsistencies, aberrant behaviour and so on) disappear, and on the other are challenged by them. Derrida, old as he was, grasped the transforming effect of the digital as early as 1996 (Derrida, 1996). The year before Geert Lovink worried that:

If people feel that they are under surveillance, they are less likely to act in manner that is beyond normalized activity; that is, they are less likely to express themselves freely, and to otherwise act in manner that could produce political and social changes within their environments. In this sense, the net serves the purpose of negating activity rather than encouraging it. It channels people toward orderly homogeneous activity, rather than reinforcing the acceptance of difference that democratic societies need (Lovink, 1995).

Others, who declare their opinions, ideas and creative works on the web, take an opposite and radical view and combine to form “social network architectures and collaborative models for cultural resistance” (Rinehart, 2003).

The digital, also, raises serious questions about preservation, particularly over the concepts of identity, originality and fixity, which can from some perspectives seem subversive, overturning existing concepts and rules of behaviour. Saul Albert claims, for example, “the notion of the author disappears as material is added to the enormous database, and interpolated with hyperlinks” (Saul Albert, 2004). John Van Maanen and Brian Pentland argue that all records are essentially self-conscious and self interested and never neutral when serving either legitimate or illegitimate ends (Van Maanen and Pentland, 1994). These can be used as arguments for agreeing with the perspective of the post-structuralists and post-modernist that truth is unknowable, because not only the text itself is problematic, but so is the medium on which it was created. For archivists and for that matter other curators to adopt such a point of view would be dereliction of their duty. Steve Dietz comments of digital art, but he could just as well have been referring of all digital output:

Another way of thinking about this issue of “Why do we want to archive these things?” is to turn the question around, and ask: what’s at stake if we don’t collect, archives, and somehow save these cultural memories? To me, I think that the downside is a huge lacuna in our cultural memory, if we don’t try to save some kind of representation of this tremendously fertile and important moment. I think it’s important to think about and question differences in the convergence between the archive, the library, and the collection. This becomes very confused in the digital meta-medium, where the archive does not follow the traditional separation between intellectual access to an object and, in a sense, physical access to the object (Dietz, 2000).

This does not mean that in the digital the concept of the original no longer exists. It does, as it has reference and can be described as a unique bit stream, a series of 1s and 0s (Allison *et al.*, 2005; Headstrom and Lee, 2002). We cannot interpret it without mediation, but no more could we interpret certain ancient hieroglyphics without the Rosetta stone. We can disagree about renditions but we can observe the bit stream and the hieroglyphics. There are logical problems with digital identity, but that does not mean there is no original. Making a physical rendition on acid free paper is not an alternative, attractive as that may seem, since the web enables many digital documents (Blatt, 1999). Given the transient nature of much of the content of the web, this makes them even more fragile and ephemeral, a feature that appeals to many who declare their *oeuvre* on the web. Dietz poses the question: “what does it mean to archive/collect network-based digital media that has connections outside of the physical projects, the actual files you are holding. This is the exchange of course” (Dietz, 2000). He explored this question by commissioning a piece of web art *The Unreliable Archivist* to mark the accessioning of äda’web (www.adaweb.com/home.shtml (accessed April, 2005)) in the Walker Art Centre, which “works with some of the elements of the idea of a database, the idea of an archive, the idea of catalyzation, deconstruction, metadata, etc. ...”

(www.walkerart.org/archive/8/A773750C8FDB27636164.htm (accessed March 2005)). He goes further with the *Wonder Walker* that attempts to replicate on the web the cabinet collection or *Wonderkammer* of the pre-modern museum, which would of course have embraced manuscripts and books (<http://wonderwalker.walkerart.org/index.html> (accessed March 2005)).

Archives in the digital environment

The content of the archive, however, will never all be digital, in the same way as the world we live in will never be either entirely virtual or virtuous. There will still be jottings on scraps of paper and there may be other evidence, which we might wish to add to our memory bank and a call a document. We will continue to describe these physical objects as originals or copies and we simply cannot inhabit a universe where some objects, because of the way they were created, lack any fixity. Let me give you an example. In September 2004 I was in the fabulous Prunksaal of the National Library in Vienna. There were exhibition cases containing material from literary archives with photographs and objects (I would call them documents) from authors' studies. One was pure confusion, notes hurriedly scribbled on the back of bills, letters typed and hand written, bits of manuscripts, marginal notes in books, music and so on – here I was at home. Another was German tidiness to a fault, the clean blotting pad, the pencil case with neatly sharpened pencils, correspondence and notes filed and in order, books squarely on the shelves. This is how archives will continue to be. What we have to do is to assimilate the digital into the differing worlds of both these authors, where arguably it is even more important to record the different contexts in which they both wrote if we truly believe in the supremacy of original order or is it disorder. To my mind this discipline, which is analogous to the archaeologists' careful recording of the site of each tiny discovery, is essential if we are to avoid the surreal world of a public sphere in which everything appears relative and even the evidential continuum is transformed into an historical snowball indiscriminately gathering "public and private memories" as it hurtles past (Katelaar, 2002; Foucault, 1972). This is not a world in which I wish to live, but I can see how you get there once you abandon any sense of reference. What we must avoid is an abstraction that bears no relation to individual practice, evidence of me.

Of knitting and loose ends

Strathern draws on ethnography to show how all these "loose ends" become resource from some vantage point in the future". Here is work for the archivist, whom I would want to characterise as an ethnographer. She ends by drawing a clear distinction between "accountability rendering an account to those to whom one is accountable, manifest in the self-evident efficacy of audit, and responsibility, which is discharged to those in one's care, whether students or colleagues or the wider society" (Strathern, 2002). We can see this distinction at work in the UK in perceptions of the war in Iraq. Mr Blair claims he has passed the accountability test through the findings of four enquiries and yet hardly any one in the UK and no one in France believes he acted responsibly. Now we have something to debate. Where is the archivist going to find the loose ends in the relentless progression from records management to the archives that will allow ultimate users, whatever their interests, to do their knitting? They will not be there and much else besides as processes to limit contingent liability and to protect personal rights take their toll of individual observations, leaving further abstraction.

The answer is self-evident. The progression from records management to archives in the European tradition has never constrained the content of memory, even in the most controlled societies. Cook contends that “this broader pluralized dimension focuses first and foremost on citizen’s impact on, interaction with, and variance from the state; it is especially attentive to the voices of the marginalized . . .” (Cook, 2000). Much as he wanted to, Hitler could not execute his powerful critic, the First World War veteran and pastor Martin Niemöller. The archive must continue to be made up of the random and the aberrant (the brave in Niemöller’s case) where “loose ends” can find partners and contribute to understanding. As Derek Keene puts it:

. . . archives are often structured by discourses of power and come to be used in the cause of public or scientific truth. But at the same time the archive, as an institution, has a way of accommodating quirky details, narratives and even entire collections that seem to have little to do with its formal or original purpose. Exaptive elements, such as these, are a vital element in the archive’s long-term value as a site for understanding and for establishing sympathy with our fellow human beings (Orlow and Maclennan, 2005).

These will come, as they have always done, from those who have opposed, criticised or participated in the actions that created the narratives of our histories. We can pay a little tribute to Derrida for alerting us all to this possibility when he wrote:

By incorporating the knowledge deployed in reference to it, the archive augments itself, engrosses itself, it gains in auctoritas. But in the same stroke it loses the absolute and meta-textual authority it might claim to have. One will never be able to objectivize it with no remainder. The archivist produces more archive, and that is why the archive is never closed. It opens out of the future (Derrida, 1996).

The archivist’s job, as it has always been, is to “discover” the “loose ends” and be willing to store them, albeit hidden from public view until they can safely be made accessible. This may be for a very long time and herein lies the difference for the archivist between accountability with its short horizons and responsibility with a real linear dynamic. The war on Iraq cannot be judged in the court of history, which Mr Blair always seems to want to appear before and Monsieur Chirac disdains to mention, until all the records are in the public domain, possibly not for 50 years. Even if we gathered all the records we can find into the archive, this will only serve to complicate historical analysis and reflection, whereas paradoxically the well-ordered and convergent output of the audit process overlaid with effective records management would have had an opposite effect. As Keene observes the presence of the loose ends “subverts both the archivist’s concern to rank and select for preservation and the historian’s or politician’s assertions of meaning and significance” (Orlow and Maclennan, 2005).

Although this is our traditional role, at least in Europe, it is hazardous territory, which might well make the archivist from some perspectives more of an enemy than a friend and from others more of friend than an enemy. Our “loose ends” come from a variety of different places. Some are deposited by owners, others we find because we ask, others our users turn up, yet others we know about but cannot get our hands on and, increasingly, we seek to preserve others that are declared on the web. Loose ends are a threat to any dominant discourse as creative artists recognise. They challenge it directly and, as Strathern and Keene (2000) and Orlow and Maclennan (2005) point out, they can be joined up to create new discourses, which no one had thought about. If you are of my generation, you will have witnessed the rise in the history of gender, the

environment, indigenous people and so on (not all thanks to the postmodernists, I hasten to say), which our methods of listing did nothing to assist. I well remember describing bundles of female correspondence as “miscellaneous and trivial”. The danger is that a pervasive audit culture and regulatory environment will make it increasingly difficult to generate and keep loose ends without running the risk of breaching codes of conduct. Perversely, the very processes that are designed to ensure accountability make it more difficult to act responsibly. An individual, whether in the private or public sector, is constrained in recording concerns and criticisms for fear of retribution that can extend to family and community[9] (Shore and Wright, 2000).

This ethical dilemma has been greatly exacerbated by the war on terror, which has allowed governments to introduce measure that erode our personal freedoms and which are open to abuse, particularly by neo-conservatists who believe “truth is not salutary, but dangerous, and even destructive to society-any society” and we could substitute archive for truth (Drury, 1997). In these circumstances the archivist may cease to be Derrida’s malevolent archons, who not only controlled but interpreted the archive; and becomes instead subversive, holding records that threaten it (Derrida, 1996). Such role-reversal demands protection, which only the courts can afford. It is very difficult to see how in the post 9/11 world citizens of the US can have confidence in the mission statement of the National Archives and Records and Administration when it is a branch of the executive:

The National Archives is a public trust on which our democracy depends. We enable people to inspect for themselves the record of what government has done. We enable officials and agencies to review their actions and help citizens hold them accountable (Available at: www.archives.gov/about_us/vision_mission_values.html (accessed March 2005).

The Society of American Archivists has expressed just such concerns about the fiduciary independence of NARA over the appointment of Dr Allen Weinstein to succeed John Carlin as Archivist of America (www.archivists.org/news/pr-weinstein2.asp (accessed April, 2005)).

Reflection on the role of the archivist

If we look back at the way the archival profession developed in Europe, it had its origins in the legal system and royal chanceries (Miller, 1977). It was part of the judiciary, which long before modern democracies emerged acted as a brake on the power of the executive, the monarch. The concept of an independent judiciary came about at different times in different countries and was threatened from time to time by despots and dictators and no doubt will be in the future. A fair trial and the right of redress through the courts are guarantees of a “free society”, more so than, perhaps, the right to vote. Courts can over-rule the executive, if they believe their actions are *ultra vires*, and they can resolve problems of conflicting legislation and regulation. In the USA there are those from the new right, who seek to overturn this important constitutional safeguard (Milbank, 2005). In Europe, where the rule of law is still respected (witness the events in the Ukraine), the courts could decide that certain records should be preserved in the national memory irrespective of considerations of national security, contingent liability, regulations and codes of practice. It may be that these have to be kept closed to public scrutiny for some period of years, but that is beside the point and, in any event, it would be for the executive to make the case. This will be true of the public sector, where the expectation is that behaviour will be judged

to be responsible over long periods of time. We still have not made up our mind in the UK about the Norman Conquest and arguably we never will[10].

This cannot be true in the private sector unless the courts or, even less likely, the executive were willing to transfer liabilities to the public. The accountability of the private sector, despite all the rhetoric of shareholder value, does not equate to public responsibility. Horizons are shorter and focus firmly on the bottom line, even though there may be long-term consequences of decisions, but these can be expunged by liquidation, perhaps especially where there has been proven malpractice. Only rarely do liabilities extend to succeeding generations, such as in architectural practices, if they did private enterprise would be paralysed. With the boundaries of the state being rolled back, even in the most corporatist societies, this creates an enormous obstacle for the archivist committed to preserving the records that underpin our societal memory. Here, there is no continuity between the records managers and the archives, the French and the Germans are right. However, being right begs far more questions than it answers, as keeping records that might jeopardize private property rights could not enjoy the protection of the law and if they did would be open to challenges in the courts. Even in the public sector the messy practicalities of real politik results inevitably in the curtailment of responsibility, as the closure, of at least parts, of the records of the South African Truth and Reconciliation Commission bears testimony. Verne Harris reflects, "Commitment to remembering [we might say responsibility] in my view, would make this the most public – the most accessible – of South African archives. It is not. Access can only be secured through the submission of requests under the *Promotion of Access to Information Act*. And, as many are discovering, due to a range of factors this is a complex, time consuming and often frustrating business" (Harris, 2002).

It may be that I am painting an all too gloomy picture and that historians of the late twenty-first century will be able to call on the same rich seams of evidence to elucidate reactions to the war on Iraq, as we can for the Second World War. I doubt it. I also doubt if our great grandchildren will be able to find out as much about us as we can about our great grandparents. As a profession, we have let much of this go by default. In the UK only this archivist has raised his hand to say that the appalling state of record keeping in the cabinet office revealed by the Hutton Inquiry was a disgrace and raised concerns about the record that would eventually pass to The National Archives in London (Moss, 2005a,b). In Europe we have been too pre-occupied with our own concerns, about such issues as promoting access and the lack of resources, to notice that the "archival imperative" has been eroded. In the Anglophone world (the UK excepted which for these purposes can be described as quasi-European) a great deal of effort has been expended in trying to resolve the conundrums posed by the post-structuralists and post-modernists without concentrating enough on these wider and, in my view, much more substantive issues. We have simply left it to others to debate them. We can no longer remain silent and we must decide if we are friend or foe, either way we will have compatriots even if we do not care much for their opinions and behaviour.

Notes

1. Cox (2002) makes this point while at the same time criticising what he terms the neo-Jenkinsonian school from his appraisal hobbyhorse.

2. See Clanchy(1977), The web site of the Archive Nationale, <http://www.archivesdefrance.culture.gouv.fr/> and the Bundesarchiv <http://www.bundesarchiv.de/> make no reference to records management. See also Gharsallah (2005) where he quotes Henri Zuber's defence of the role of the archivist. For the French Revolution impact on archives see Burke (2000). The Archive National was established in 1790 and written into law in June 1794. One of its three objectives was "l'établissement de leur publicité en opposition avec la pratique antérieure du secret d'Etat". There are earlier examples in Europe of scholars gaining access to archives, see Burke (2000, p. 145).
3. In his inaugural address as archivist of the USA, Professor Allen Weinstein accepted this view, http://www.archives.gov/about_us/archivists_speeches/speech_03-07-05.html (March 2005) and in the UK, the proposals for new legislation seeks to follow this lead, see <http://www.nationalarchives.gov.uk/policy/proposed/default.htm> (March 2005). For the Australian perspective see McKemmish and Ackland (1998) and McKemmish (1999).
4. See McCoy (1978), he points out that there was no time for the archivist, Wayne Grover, to mobilize support against the loss of independence of the national archives, www.archives.gov/research_room/federal_records_guide/commissions_on_organization_of_executive_rg264.html (accessed March 2005) and McKinnon (1994).
5. See Pemberton (1996). Cook addressed this dichotomy which he characterized as between evidence and memory in Cook (2000).
6. For example, *The Sarbanes Oxley Act* (2002) has implications that extend to any business that trades with the US, and *Petitioners v. Brown and Williamson Tobacco Corporation* (2000).
7. EU Directive 95/46/EC.
8. The World Bank emphasises the use of audit to prevent the misallocation of resources and corruption, see <http://www1.worldbank.org/publicsector/anticorrupt/othersites.htm> (accessed March 2005).
9. This issue is explored by Shore and Wright (2000).
10. David Bates, the director of the Institute of Historical Research at the University of London, set out to rewrite David Douglas' canonical biography, *William the Conqueror: The Norman Impact on England*, (London 1964). Douglas, who was brought up against the background of Freud, had assumed that the fact that William the Conqueror was illegitimate implied an unhappy childhood and a struggle for power. Far from it, as Bates will show, it was not uncommon for illegitimate children to become kings in contemporary Europe and he did not have an unhappy childhood. He can do this because archives and for that matter libraries and museums contain all the references used by Douglas and some he had overlooked.

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