Towards the end of his book "On Law and Justice", Ross said this: In different cultures institutions take different shapes. Shaped once by causes we cannot comprehend, the institutions are continued by a cultural tradition and supported by a legal consciousness reflecting that tradition. The tradition and this sentiment, however, are not unchangeable, but do change in time. It is tempting to assume with the historical school that they live their own organic life. Actually, however, they must be assumed to change under pressure of experience and needs, but in a way we cannot control. The fundamental institutions change along with the evolution in the community, possibly even by revolutions, but they are outside the province of rational politics.¹

I am sure that, when he spoke of "fundamental institutions", Ross did not have in mind anything like the Professional Secret ². Yet in the minds of many lawyers in Europe today, the Professional Secret has acquired the status of a fundamental institution.

The principle that a lawyer should not be required to disclose what his client has told him can be traced at least as far back as the reign of the Emperor Constantine.³. The European Court of Justice has found that it is "a principle common to the laws of the Member States [of the European Community]" ⁴, and the obligation of confidentiality is recognised by the Bars of the European Community as being "the primary and fundamental right and duty of the [legal] profession" ⁵. It is significant that totalitarian states, although they claim to recognise the principle that a lawyer must preserve the confidences of his client, have made, and still make, an exception where it is in the interests of "the State" or of "the Party" to require him to tell what his client has told him.

² In this lecture, I use the phrase "the Professional Secret" to refer, in the first place, to the doctrine or principle of law that communications (written or oral) between a lawyer and his client are confidential and, in the second place, to all the subordinate rules of law and procedure which are designed to ensure that this confidentiality is protected.
³ Digest 22.5.25 (de testibus), quoting the late Roman jurist Aurelius Arcadius Charisius.
It is true that, even in western Europe, the principle of confidentiality between lawyer and client has been given concrete expression in the law in different ways. The law of my country is different from yours, and the law of both is different from that of France. As Ross says, institutions take different shapes in different cultures. But, at least at first sight, it seems reasonable to say that the Professional Secret is, in some sense, a "fundamental institution" the treatment of which by the organs of the state is, in some way, a test of whether we live in a free society.

So it is worth asking whether it is really true, in Ross's words, that this institution has been "shaped by causes we cannot comprehend", that it "must be assumed to change under pressure of experience", and - perhaps most important - that any discussion of it lies "outside the province of rational politics". To put the matter another way, can we identify a hard core of principle, which is worth preserving and which ought not to be allowed to change under the pressure of experience?

These questions are all the more important because there is ample evidence that those who shape the policies of government are suspicious of the idea that a lawyer's office should, as it were, enjoy the privileges of the confessional and be immune from the long arm of the law. If lawyers believe that the Professional Secret is fundamental to the practice of their profession, and that it can and should be respected and protected by the state in a free society, then it is not enough simply to assert that this is so. We must attempt to bring the subject within the realm of rational political discussion.

Indeed, I agree with Ross when he says in the last paragraph of his book that

The role of the lawyer as legal politician is to function as far as possible as a rational technologist: in this role he is neither conservative nor progressive. Like other technologists he simply places his knowledge and skill at the disposal of others, in his case those who hold the reins of political power.6

Another way of saying the same thing was suggested to me by a senior official in Brussels: the aim of the professional lawyer when dealing with government should be to express "l'intérêt désintéressé de l'avocat" - the disinterested interest of the lawyer.

As a matter of history, the idea that the relationship between lawyer and client is a relationship of confidence can, as I have said, be traced at least as far back as the Roman jurists. The Digest7 lays down the rule that an advocate should not be allowed to testify in a cause in which he has acted as advocate. And the Code8 declares void any contract between an advocate and a litigant "quem in propria recepit fide". The Latin phrase, "quem in propria

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7 Cit. sup., note 000.
8 Codex 2.6.6.2 (de postulando).
"recepta fide", is almost untranslateable. It illustrates the startling economy of the Latin language. But it emphasises both the trust which the litigant must have in his advocate and the duty of the advocate to preserve the confidence of his client. Although in both cases the Roman jurist is laying down a negative rule (that an advocate cannot be required to testify, or that an advocate cannot enter into a valid contract with his client), it is clear that these rules go beyond mere legal technicality. Underlying the rules, there is a sense of moral obligation to preserve and protect a relationship of confidence.

The same idea occurs repeatedly in later writings. For example, Advocate-General Gilbert Desvoisins, addressing the Parlement of Paris in 1728, said that

It is beyond doubt that the religious faith of the secret is essential to the Bar as a profession ... The advocate and legal adviser is necessary to the citizen to safeguard and defend his property, his honour and his life ... The confidence of his client is, above all, necessary for him to perform [the important role the law assigns to him]. Where secrecy cannot be assured, confidence cannot exist.9

A century later, a British Lord Chancellor said

The foundation of this rule is not difficult to discover. It is not (as has sometimes been said) on account of any particular importance which the law attributes to [the legal profession], or to any particular disposition to afford them protection ... It is out of regard to the interests of justice which cannot be [upheld], and to the administration of justice which cannot go on, without the aid of men skilled in jurisprudence, in the practice of the courts and in those matters affecting rights and obligations which form the subject of all judicial proceedings ... Deprived of all professional assistance, a man would not venture to consult any skilful person or would only dare to tell his counsellor half his case.10

It is, I think, important to stress the moral or ethical element in the doctrine of the Professional Secret since it is here, if at all, that there is, in Ross's phrase, a cause that we can comprehend. It has been suggested that the lawyer's obligation to preserve the confidentiality of what his client has told him is merely a contractual obligation - that it is an obligation which arises out of the private contractual relationship between lawyer and client. If it is a purely private obligation, then it can be overridden when the higher interests of society require it. Others have said that the Professional Secret must be seen as an exception to the ordinary rules of law - the rule that a witness must tell the truth in court or, more generally, the rule that a citizen must not obstruct the investigation of crime by the duly authorised officials of the state. Exceptions to the ordinary rules of law must be construed

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9 For the full text, see Chauveau & Hélie, Théorie du Code Pénal, Bruylant-Christophe, Brussels, 1860-63, p. 277, n.3.
strictly and this applies as much to the Professional Secret as to any other exception.

If we remain at this level of legal technicality, it becomes very easy to argue that the legal rules protecting the Professional Secret are no more than an expression of a passing phase in the evolution of society, subject to change under the pressure of experience and needs. The nature and values of society change. Indeed, there are new threats to the survival of western society as we know it. Drugs, terrorism, tax evasion and the multifarious forms of corporate manipulation and wrong-doing all contribute in their own way to the subversion of the values which our systems of law are meant to uphold. Given these changes and these new threats, it is perhaps reasonable to ask why the lawyer should not be required, like other men, to tell what he knows and make available any information or documents which may be relevant to discovery of the truth.

There are two ways of answering this question. The first relies specifically on the role of the lawyer as part of the machinery of justice. As the French put it, the advocate is "l'auxiliaire de la justice" - the auxiliary, or helper, of justice. The performance of the lawyer's function may appear to suggest that he is the opponent of public authority. But that is only so because our system of justice requires that someone should be cast in that role. Like Ross's uninstructed observer of the game of chess who sees only what the players do without knowing why11, the observer of the game of justice sees only the lawyer as the opponent of the police, the public prosecutor or (sometimes) the judge. So far from helping the process of justice, the lawyer's function seems to the uninformed observer to be that of obstructing it. But, for the players who understand the game, this is an essential element in the game as a whole.

Our system of justice (and it does not matter, in this respect, whether we are talking about the common law system, the Scandinavian system or the civil law system) - our system of justice requires what we in Scotland call a contradictor since it is through the process of argument and counter-argument, thesis and antithesis, that the way to the truth and a just result will be found. We therefore cast the advocate in the role of contradictor. It is his task to put forward all the arguments and objections which the client would put forward for himself if he could.

To perform that role adequately, the advocate must, to some extent at least, put himself in the shoes of his client. He must know what his client knows and this means, in turn, that his client must be honest with him. To change the metaphor slightly, they must play with the same hand of cards. The other players cannot insist that the advocate and his client should play with their cards face up on the table. That would be contrary to the rules of the game.

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11 On Law and Justice, p. 11 ff.
That might be a sufficient answer to our problem, provided that we continue to play the "game" of justice in the same way, according to the same rules. But we are no longer playing the same game in the same way. The process of justice, in the sense of what happens in courts of law, is only one part (and often a small part) of what the modern lawyer does. Moreover, modern ideas and modern technology are leading to new concepts of the process of justice, even in that limited sense. We have to look further, and more deeply, to find a moral principle which is adequate to justify the doctrine of the Professional Secret today and in the 1990's. We need a more sophisticated answer.

The first clue to the answer lies, I think, in the word "secret". The European Convention on Human Rights recognises the right to privacy - the right of the individual to keep his private affairs immune from intrusion by the state. We may be foolish to think that there are secrets we can keep to ourselves, but we are entitled to try, and we should not be required to explain our reasons for doing so to anyone. That is why Article 8 of the Convention puts the matter in the way it does.

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Note that the Article begins by stating the principle, and then states the permissible exceptions to the principle. It is for the state to justify intrusion into the private affairs of the individual, not for the individual to show cause why the state should not do so.

So it is wrong to suggest that the doctrine of the Professional Secret is an exception to the ordinary rules of law and that, because it is an exception, it must be construed strictly. On the contrary, the law protecting the secrets of the individual is an expression of a positive rule of law. It is the exceptions to that rule which must be construed strictly.

This conclusion can be supported by reference to Article 10 of the Convention which protects the right of freedom of expression. Paragraph 2 of that Article reads:

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
Here, again, although it is expressed as a ground for derogating from the right of freedom of expression, the right to protect information received in confidence is treated as a positive right.

The second clue lies in the form of words used in the Penal Codes of most of the western European countries. The model on which they are based appears to be Article 378 of the Napoleonic Code of 1810. Article 378 said this:

Doctors, surgeons and other officers of health, as well as pharmacists, midwives, and all other persons who, by reason of their status or profession, are entrusted with the secrets of others, and who, unless the law requires them to do so, reveal those secrets, shall be punished by imprisonment and a fine.

Note that lawyers are not specifically mentioned, though they are mentioned in the Codes of some other countries including your own. The French Code extends quite generally to all those who "by reason of their status or profession are entrusted with the secrets of others".

From this phrase the French writer Charles Muteau\textsuperscript{12} developed the idea of "le confidant nécessaire" - the necessary confidant - an idea which has been adopted by the French courts in interpreting the successors to Article 378 of the Napoleonic Code.\textsuperscript{13} The underlying idea is that, whether he would voluntarily do so or not, there are some circumstances in which the citizen cannot avoid disclosing the secrets of his private life to other people. These people must know the truth - and, as far as possible, the whole truth - if they are to be able to help.

Seen in this light, the relationship of confidence between lawyer and client is simply one example of a wider phenomenon. The doctor can cure only if he knows all the symptoms and the circumstances in which a disease may have been contracted. Similarly, the lawyer can give useful advice only if he knows all the facts that are relevant to the problem he has to solve.

This goes far beyond the scope of criminal prosecutions and civil lawsuits. The scope of the law is now so wide that there are many aspects of life where the individual may need the help of a lawyer without going anywhere near a court. If the principle of the Professional Secret is to have any meaning, it must apply to all circumstances in which the lawyer, by reason of his profession, becomes the necessary confidant of the individual.

Indeed, it becomes all the more important to assert this principle as modern technology and the modern development of the law enhance and extend the armoury of the state. As the weapons available to the authorities of the state become more powerful, the citizen becomes all the more in need of help and protection from the lawyer who knows


\textsuperscript{13} Lambert, ibid.
what weapons of defence are available to him and knows how to use them.

This is, I think, what the European Court of Justice had in mind when it said in the AM&S case\(^\text{14}\) that, in the Community legislation on control of competition,

... care is taken to ensure that the rights of the defence may be exercised in full, and the protection of the confidentiality of communications between lawyer and client is an essential corollary to those rights.

It is here, therefore, that I find the hard core of the doctrine of the Professional Secret. It lies in the defence of the individual against all forms of oppression, injustice and maladministration. And I see no reason why that hard core of principle should not be as relevant to life in the 1990's as it has been since the reign of the Emperor Constantine.

Having said that, the fact that we have identified the hard core of principle is only a beginning. There are probably very few politicians who would be prepared to dispute, in public at least, that the privacy of the individual should be protected. The problems that arise, and are likely to arise in the 1990s and beyond, are more complex and less likely to attract public sympathy.

The AM&S case arose in the course of an investigation by the Commission of the European Communities into an aluminium cartel. The parties concerned were multinational corporations, not private individuals. The existence of a cartel, if proved, was of considerable concern, not only to the Commission as competition authority, but to everyone in the Community who might happen to be, in one form or another, a consumer of aluminium or a user of products made from aluminium. Why should legal rules devised for the protection of individuals be invoked by multinational corporations to protect themselves against investigations which might show that they have been involved in an arrangement designed to enrich themselves at the expense of millions of individuals?

In answer to this question, one argument was that the corporation - the "person" created by the law as opposed to the person created by nature - is nevertheless a person for the purposes of the law. Legal rules devised for the protection of natural persons must apply equally to legal persons and no distinction should be made between them.

I must say that this argument, by itself, has never seemed to me to be particularly persuasive. If the law can create "persons" in the form of commercial corporations, the law can surely define and limit their rights and obligations. There is no reason in logic or in law why those rights and obligations should be precisely the same as those of human individuals. Indeed, in point of fact, they are different in many respects.

\(^{14}\) Supra, note 4, point 23 of judgment.
On the other hand, there are practical reasons why the corporation should be treated in the same way as the individual. There is at least one world-wide enterprise which includes many subsidiary companies but is ultimately controlled by a single individual. He, as an individual, holds the shares in the operating companies and controls their policy. Because he chooses to operate as an individual, would it be right to give his "secrets" greater protection than those of companies whose policy is controlled by a Board of Directors elected by thousands of individual shareholders?

Equally, there are many cases where it is more convenient for a single individual, or the members of a family, to run a small business through the medium of a limited company. Formally speaking, they may be the directors of a company, but the decisions they make as directors are exactly the same as those they would make as individuals. Can we say to them that, because they choose to operate as a company (as the law allows them to do), their "secrets" are no longer entitled to protection? Perhaps we can; but it seems to me that this would produce unacceptably inequitable results.

This may, in itself be a sufficient reason why the principle of confidentiality between lawyer and client cannot reasonably be confined to the relationship between a lawyer and those of his clients who are individuals. But there is also, I think, a more fundamental reason. Here I go back to the idea of the lawyer as the auxiliary or helper of justice.

The judicial process is an attempt to formalise the tensions that exist between the citizen and the state or, in civil cases, between one citizen and another. The formal rules help to reduce tension and contribute to the cool and rational solution of difficulties. Experience may show that the rules have to be changed to suit modern conditions and ideas. But the underlying tensions and difficulties remain. They are a part of the real world, which becomes formalised in the courts of law.

The role of the advocate in the courts of law is an essential part of that formal process. Without him, the formality of the process would lose much of its purpose since it is designed to reproduce, in a formal context, the debate about rights and obligations which must take place in order to resolve the underlying tensions and difficulties.

If we move out of the courts, we find the same debate about rights and obligations, whether it is the debate between the multinational corporation and the authority that regulates competition, the debate between the municipality and the person who wants to build a house, or the debate between tax-collector and tax-payer. Although the debate is less formal than it would be in the courts of law, it is none the less a debate which has to be conducted within a framework of legal rules.
Ross says in his book on "Directives and Norms":

Legal rules govern the structure and functioning of the legal machinery. By "legal machinery" I mean the whole set of institutions and agencies through which the actes juridiques and the factual actions we ascribe to the state are undertaken. It includes the legislature, the courts, and the administrative apparatus to which belong the agencies of enforcement (especially the police and the military). To know these rules is to know everything about the existence and content of the law. 15

One does not have to agree with Ross's conclusion to accept his proposition that the "legal machinery" includes the whole of the legislative, judicial and administrative apparatus through which the state acts. And it is fundamental to our conception of a state based on the rule of law that the whole of this apparatus should operate within a framework of legal rules.

Further, as Ross says earlier,

... it is necessary for the establishment of a norm that it be followed not only with external regularity (that is, with observable conformity to the rule), but also with the consciousness of following a rule and being bound to do so. 16

In other words, those who administer the law must not only be seen (objectively) to do so in accordance with the legal rules, but must feel themselves to be under a moral compulsion to do so.

Within the judicial process, the presence of the advocate reinforces the moral compulsion to act in accordance with the rules. Experience shows that the same holds true in other circumstances where the apparatus of the state is brought to bear on the citizen. Where a lawyer is present to act on behalf of the citizen, those in authority will usually be more careful to act in accordance with the legal rules. Sometimes, of course, this is not what he client wants. He wants the authorities to bend the legal rules in his favour. If so, he will probably be better off without a lawyer.

But this only goes to show that the lawyer can and does play an important role in sustaining the framework of legal rules within which public authority (in all its forms) has to operate. If this is correct - and I hope you will agree with me that it is - the same reasons which justify the principle of confidentiality between lawyer and client in the context of the judicial process apply equally outside that context. The lawyer as "advocate" and legal adviser is an "auxiliary" of the rule of law. Through his participation in the process of public administration - the process by which the abstractions of the law are applied to factual circumstances - the lawyer helps to ensure that the process is carried on according to known rules impartially administered.

16 Directives and Norms, p. 83, following Hart.

- 9 -
So there are positive reasons why no distinction should be made between the individual client and the corporate client. The reasons relate, not to the identity of the client, but to the role of the lawyer in society.

At this point, let me try and summarise my conclusions so far. First, the principle of the Professional Secret has its hard core in recognition of certain fundamental rights of the individual. Second, the principle is a positive rule of law, any exception to which must be justified. Third, although the principle exists primarily to protect the individual, it cannot be limited to protection of the individual. Fourth, when properly understood by those in authority, the principle can be seen to serve the rule of law rather than to undermine it.

All this presupposes, of course, that the lawyer is honest, and that his role is confined to that of advocate and legal adviser. But this is not always so. Not all lawyers are honest, and the role of the lawyer in the late twentieth century - particularly in your country and mine - goes far beyond the traditional fields of advocacy and legal consultancy. In the fields of taxation and corporate affairs especially, it is difficult to draw a clear line of demarcation between the situation where the lawyer is purely an independent legal adviser and the situation where he is fully involved in the process of taking decisions. Indeed, in the British system at least, the solicitor is the agent of the client. He must, for some purposes, step fully into the shoes of his client so that his acts are, in law, the acts of the client. The relationship between agent and client in that sense is not the same as the relationship between legal adviser and client which the principle of confidentiality was designed to protect.

This gives rise to serious difficulties in applying the law, and those difficulties are likely to increase as we move into the 1990s. The root of the problem appears to be this. Even if we accept the principle that communications between lawyer and client are and ought to be confidential, how are we to discover whether, in a particular case, the lawyer is acting as advocate or legal adviser or simply as agent of his client? And how do we guard against abuse of the principle by unscrupulous lawyers?

The theoretical answer of the law is simple. The principle of the Professional Secret exists only to protect the confidential relationship between the client and the lawyer in his capacity as advocate and legal adviser. Where the lawyer steps outside this capacity - whether it is to assist his client in wrong-doing or, more generally, to act for his client in some other capacity, the principle does not apply. So, in order to find out whether a communication between lawyer and client is protected or not, the first step is to find out the purpose for which, and the circumstances in which, the communication was made.

But here we are faced with a paradox since it is difficult, if not impossible, to discover the purpose without first discovering the nature of the communication itself: in order to discover whether a
communication is protected from disclosure, the communication itself must be disclosed in order to discover its purpose.

This was one of the principal underlying issues in the A.M. & S. case. The Commission did not seriously dispute that the principle of confidentiality ought to apply in competition investigations (although the French government did). The problem arose because the company which was being investigated claimed that certain documents were protected and ought not to be seen at all by the Commission's inspectors. The Commission, with some reason, contended that the company could not be allowed to decide for itself which documents should be disclosed. The inspectors must at least be allowed to see the documents in order to decide whether the company's claim was justified or not.

The company, on the other hand, pointed out that this gave rise to two difficulties. First, the Commission would effectively become judge in its own cause. Second, even if the inspectors could make no formal use of confidential documents, such documents are quite likely to contain clues to the existence of other documents or other information which would not be protected. So, by an indirect method, the inspectors might be able to obtain information which they could not have obtained without access to confidential documents.

The solution adopted by the Court of Justice was to require the documents in question to be delivered to the Court in a sealed envelope. The Court then made a list of the documents and gave a brief description of them without mentioning their contents. On this basis it was possible for the Commission and the company to argue in open court whether the documents were entitled to protection or not and for the Court to give judgment.

On the whole, this solution seems to have been accepted as a reasonable solution to the problem. It is certainly acceptable to Scottish lawyers because it is the method we use in our own system. I imagine that Danish lawyers also would find it acceptable since, under your Code of Procedure, it is the judge who has to decide whether a communication between lawyer and client should be disclosed or not.

We have to recognise, however, that what is easy for us to accept may be more difficult for others. In our systems, the judge is not expected to be an investigator. In other systems the judge is expected to seek out the truth. So the judge is in a position very like that of the Commission's inspectors. As Ross pointed out, "In different cultures institutions take different shapes." If we step outside the narrow context of our national legal systems into the wider context of the European Community, it may not be possible to find solutions which satisfy everyone.

We can, however, learn from each other, and there are two features of French and Belgian practice which are, I think, worth studying. Both depend on the special position of the Bâtonnier in the French and Belgian Bars.
As you may know, there is no national Bar in France or in Belgium. There are more than 180 autonomous Bars in France and 26 in Belgium, organised on a regional basis. Each has its own leader, the Bâtonnier, elected by universal suffrage of its members. As the directly elected leader of a local Bar, the Bâtonnier occupies a special position of trust. An advocate who is faced with a professional problem can consult the Bâtonnier and, if he does what the Bâtonnier recommends, he is protected against being accused of professional impropriety.

The right of the individual advocate to consult the Bâtonnier makes it possible for him to get independent professional advice if he is in doubt whether he should disclose something said or written to him by his client. It is also possible for the advocate to ask that the Bâtonnier or his representative should be present when his office is searched. Indeed, the French Code of Penal Procedure requires the investigating judge, before carrying out a search of an advocate’s office, "to take all appropriate steps beforehand to ensure that the professional secret and the rights of defence are protected".

The Code is now being revised, but the French Bars have secured an agreement with the Ministry of Justice on three essential points:

1. The office of an advocate can only be searched by an investigating judge, not by the police or other authorities;
2. The judge must state the purpose of the search and allow time for the Bâtonnier or his representative to be present;
3. Although the Bâtonnier cannot prevent the judge seizing a document, he can state that, in his opinion, a document is protected by the professional secret and ought not to be seized; and he can insist that this be recorded in the record of the search.

I understand that it is intended that a similar basis of understanding should be reached with the fiscal and customs authorities.

Such a system obviously depends on the immediate availability of a person such as the Bâtonnier whose authority is recognised, both by the members of the Bar and by the public authorities with whom they have to deal. It may be much more difficult to arrange here or in Britain. But the crucial point, I suggest, is this: It may be true that, in today’s society, a lawyer cannot be allowed to invoke the Professional Secret as a way of avoiding all investigation by the authorities of the state. But the investigating authorities of the state should equally not be the sole judges of whether documents or information should be disclosed. Protection of the underlying principle calls for an independent arbiter or intermediary.

The independent arbiter or intermediary is necessary for other reasons too. Recent cases in different countries have illustrated the problems that follow from the greater mobility of the lawyer. Can his briefcase be searched when he crosses a frontier? Must the customs authorities limit their search to discovering whether the lawyer is carrying drugs, arms or other contraband? Or can they read the papers they find? If they can read them, can they pass the information they find there to other authorities who may be interested?
The computer, too, brings new problems. Information in computers is both more and less accessible to investigating authorities. Rules devised for a world in which people communicated face to face or in writing will not necessarily be adaptable to the world of electronic data processing and electronic mail - not to speak of the infinite possibilities of wire-tapping and electronic surveillance.

These new techniques call for new safeguards. The appropriate form of safeguard will depend on the custom and attitudes of the country. In your country and in mine, we would probably be content to rely on the impartial intervention of a judge. Nevertheless, we must be sure that procedures are available to provide quick and effective recourse to a judge. We must also establish a basis of understanding between the public authorities and the authorities of the profession in order to ensure that problems of confidentiality are taken seriously and can be resolved in a cool and rational way. It is undesirable, and I think dangerous, that such problems should be treated as if they concerned only the individual lawyer and the individual client. If, as I have sought to argue, a fundamental moral principle is at stake, the problem concerns all of us.

So there is room here for rational political debate. The starting point must be the mutual acceptance by politicians and lawyers that we are concerned with the problem of translating a principle as old as the Christian era into legal terms and legal methods appropriate to the end of the twentieth century. I have tried, in this lecture, to contribute to that debate by playing the role which Ross assigned to "the lawyer as legal politician" - I have tried to be, as far as possible, "a rational technologist, neither conservative nor progressive". Whether I have succeeded, I must leave it to you to judge.