

# Maryland's County Records— The Eclectic Approach

By GUST SKORDAS\*

*Maryland Hall of Records*

THERE can be no doubt that the Maryland Legislature intended to have the Hall of Records used for housing county as well as State records. The act of 1935 creating the Hall of Records Commission specifically provided that "Every State, county, city, town or other public official in the State in custody of public records or documents is hereby authorized and empowered, in his discretion, to turn over to the Commission and deposit for preservation any original papers, official books, records, documents, files, newspapers, printed books, or portraits not in current use in his office." Both James A. Robertson, the first State Archivist, and Morris L. Radoff, who succeeded him in June 1939, made the centralization of county records one of their major objectives. During the early years, however, such records came in slowly.

One of the obstacles encountered in every county was the peculiarity of Maryland law that permits land titles to be questioned all the way back to the original grant, which may have been made three centuries ago. This means that even the earliest land-record volume cannot be considered noncurrent although, in most instances, a title search of 50 years is considered adequate protection. This being the case, no clerk of court was willing to permit the removal of his land records without some form of replacement. Yet these were records of great historical value. Moreover, the hard usage to which they had been subjected had left many of them badly in need of repair.

As a solution to this difficulty, we inaugurated in 1941 a program of replacing the original land records with bound photostatic copies. At that time the use of photography in record work was

\* Paper read on Oct. 6, 1961, in the course of the 25th annual meeting of the Society of American Archivists, at Kansas City, Mo., as one of three papers presented in a session over which H. G. Jones presided; the other two, by Dolores C. Renze and John Alexander McMahon, also appear in this issue. Mr. Skordas, Assistant Archivist of Maryland and a Fellow of the Society, is a member of the Committee on State and Local Records. He is, as well, chairman of the Program Committee for the Society's 26th annual meeting, to be held in Rochester, N. Y., Sept. 30–Oct. 2, 1962.

still in its infancy and some of the local officials distrusted the photostatic copies we were offering them. But by persuading some officials and outliving others (Dr. Radoff and I were much younger then) we pushed the program to completion. Ten years later we had replaced the land records dating before 1788 with photostatic copies in every county except Anne Arundel and Baltimore, where it was not considered necessary.

#### MANDATORY ACT OF 1945

Meanwhile, dissatisfied with our slow progress in bringing in the county records, Dr. Radoff had persuaded the legislature to adopt the mandatory act of 1945. This act required that "Papers, records and documents, now in the Court Houses of this State, which were made prior to April 28th, 1788, the date of the adoption of the Constitution of the United States by the State of Maryland, shall be transferred as soon as practicable after June 1, 1945 to the Hall of Records Commission." It further provided that "Every Clerk of Court, Register of Wills, or other public official now having custody of said papers, records and documents, is hereby directed to transfer the same to the Hall of Records Commission and upon making such transfer, every such Clerk, Register of Wills or other official is hereby relieved from any duties or responsibilities in connection therewith."

This removed another of the stumbling blocks we had encountered in attempting to persuade custodians to transfer their records. The older counties took pride in their local heritage as represented by the records. Clerks and registers, being elected officials, were unwilling to risk the wrath of local historians and genealogists by sending their records to Annapolis. Now they could point out to their constituents that the transfer was mandatory. In actual practice we have never attempted to use this law against a reluctant custodian. If we could not convince him that the transfer should be made, we left the records in his custody until lack of space made him change his mind or until he was succeeded by a more cooperative official. The real value of the mandatory act was the protection it afforded the custodian from those who might condemn him for transferring his records.

Incidentally, our early efforts to collect county records were not exactly helped by some of the wild rumors spread about our activities. The deputy clerks in one county office told us they had heard that a railroad siding ran past the Hall of Records and that as soon as records were transferred from the counties they were put in freight cars to be shipped north and sold to the Yankees.

## SECURITY COPIES OF COUNTY RECORDS

No better illustration of what is meant by the "eclectic approach" can be found than the various expedients we have employed to get security copies of the land records and other important series of county records. Some of the wealthier States have appropriated large sums of money for this purpose. For example, North Carolina has appropriated \$300,000 or \$400,000 to put its county land records on microfilm. This makes life easy. A staff is hired, the necessary equipment and supplies are purchased, a Cadillac car is placed at the disposal of each team of photographers, and they are sent out to do the job.

In Maryland it has not been so simple. The Genealogical Society of the Church of Jesus Christ of Latter-day Saints microfilmed the early land records up to 1850 and in return for our sponsorship furnished us a print of each reel. Since 1949 the State Land Office, with the collaboration of the Hall of Records, has received a security copy on microfilm of every land record in every courthouse of the State. This filming, however, left a gap of about a hundred years between 1850 and 1949 for which there were no film copies. We have used almost every conceivable procedure to fill this gap. Some filming has been done by our staff photographer. Some county clerks, seeing the value of this project, have had their own photographers do the filming; others have hired outside help.

Perhaps the most complicated operation was in Queen Anne's County, where a member of the clerk's staff did the filming, using a camera owned by the register of wills and film furnished by the Hall of Records. We have supervised the work and inspected the film.

As of now, photographing in 12 counties has been completed. Some progress has been made in five other counties and Baltimore City. This leaves six counties still to be covered. All the counties should be fully protected in about three more years. The work may take a year or two longer in Baltimore City, where there are some 6,000 volumes yet to be filmed.

We have also made good progress in microfilming certain key series of probate records. Here again, film copies of the records up to 1850 were furnished us by the Church of Jesus Christ of Latter-day Saints. In 1950 and 1951, when the current land records were being filmed commercially, we took advantage of the opportunity to bring the filming of wills and orphans' court proceedings up to date in every county. In several counties the inven-

tories and accounts have also been filmed, but much remains to be done.

#### LAWS RELATING TO RECORDS DISPOSAL

Twenty years ago the Hall of Records first became involved in the problems of records disposal. An act passed in 1941 provided that any agency desiring to dispose of its noncurrent records must first offer such records to the Hall of Records Commission. If they were accepted the problem was solved. If the Commission declined any or all of the materials offered, the agency could then request the permission of the Board of Public Works to destroy the records refused. It was required that a certificate of destruction listing the records destroyed be filed with the Hall of Records Commission. No records less than five years old could be destroyed—nor could certain other types of material, including permanent books of account, the proceedings of any court of record, and records required by statute to be maintained permanently or for a fixed period of years.

Repeated requests for disposal of certain kinds of records led to the passage in 1949 of a law that authorized the establishment of schedules providing for the periodic disposal of certain record series. The same act reduced the minimum period of retention from five to three years and declared some kinds of material to be nonrecord.

Operating under these acts, we were able

tions thereon to the Department of Budget and Procurement or to the Board of Public Works, as appropriate.

The omission of county agencies from the provisions of this act was deliberate. We realized that for a while we would be fully occupied working with the State agencies. We felt also that we had sufficient authority under existing law to assist any county officer who called upon us for help with his records problems. The important thing was that we now had the necessary staff.

The original records management staff of six has now grown to nine. It operates under the immediate supervision of the Assistant Records Administrator. The archival staff also has nine employees and is supervised by the Assistant Archivist. The Archivist and Records Administrator directs the entire agency and frequently takes active part in both archival and records management operations. The Archivist's secretary and an accountant complete the roster of 21 employees in the Hall of Records.

#### SCHEDULING COUNTY RECORDS

Since 1953 the Hall of Records has become increasingly involved in activities relating to county records, so much so that in recent years one of our two public records examiners has been assigned exclusively to county work. Whenever a county agency wishes to dispose of records, the public records examiner visits the county to examine the records and prepare a schedule. The agency is given an opportunity to review the schedule; and, after the agency head has signed it, the Archivist and Records Administrator and the Board of Public Works must approve it before it becomes operative. We police the schedule, and usually when records are being removed from a courthouse a staff member is present to see that only the material scheduled for destruction is destroyed.

In preparing schedules the records management staff has a general understanding of the types of material that are desirable for our archival collections and is alert to discover such items. When there is any question as to the desirability of certain records, the Archivist or Assistant Archivist must be consulted before the records are scheduled for transfer to the Hall of Records. Occasionally some very interesting items are discovered—as, for example, the two volumes of seventeenth-century judgment records found in the basement of the Talbot County Courthouse four years ago.

To date we have established 215 schedules covering 2,134 series

of records in 101 county agencies. We have also established 4 general schedules covering 56 series in county health departments and county welfare boards. General schedules are now being prepared for county boards of education.

#### ADVISORY OPERATIONS

Although the clerks of court and registers of wills operate on a county basis, in fiscal matters they are State officers. They must account to the State comptroller for the fees they collect for their various services. They are authorized to pay salaries and other necessary expenses of their office out of the monies they collect, but any excess balance must be deposited in the State Treasury. In return the State makes up the deficit in those offices if the fees collected do not cover necessary expenses.

Before making any extraordinary expenditures these county officials must request permission in writing and receive the approval of the comptroller. Whenever such requests involve the purchase of record equipment or services, the comptroller seeks the advice of the Archivist and Records Administrator. Typical of the equipment and services requested are microfilm cameras and readers, photostat cameras, quick-copy machines, roller shelves, filing equipment, indexing, and the rehabilitation of records. Usually the requests are referred to the Records Management Division, but occasionally the Archivist and Records Administrator handles a request himself. If a special technical problem is involved such as the repair of records, the Assistant Archivist may also be consulted.

We give careful attention to the problems underlying these requests and occasionally our recommendation is quite different from the solution originally proposed. Several years ago the clerk of court for Queen Anne's County requested permission to spend some of his excess fees for rebinding a number of volumes of early land records. Upon examining the volumes we saw that the pages had become too fragile for rebinding. We proposed to the clerk that the original records be transferred to the Hall of Records, and that microfilm copies be furnished him. There was no film reader in the clerk's office, but arrangements were made for the use of the reader in the office of the register of wills whenever necessary.

We are also called upon directly by county officials for advice in dealing with records problems. Some months ago the county council of Montgomery County, one of our two charter-government counties, asked our help in developing a records management



program. Since then members of our records management staff have worked with county personnel in inventorying records, preparing schedules, drafting plans for a county records center, and preparing a records management budget.

When the Talbot County Courthouse was enlarged several years ago, Dr. Radoff was asked to review the plans insofar as the storage of records was concerned. He has also been consulted about the remodeling of the Queen Anne's County Courthouse, now in progress.

At the meeting of the Register of Wills Association last July there was considerable discussion about the possibility of recording by microfilm and we were requested to work with the association's legislative committee in exploring the feasibility of this idea.

#### RECENT LEGISLATION RELATING TO COUNTY RECORDS

Dr. Radoff has persuaded the legislature to enact several laws affecting county records. Quite often he had little support from the officials involved, but later some of them expressed their appreciation of the benefits derived. An act of 1957, for instance, regulated the form of legal instruments presented for recording, requiring that such instruments be on white paper with black print, and so forth. The reason for this, of course, was to produce the best possible photocopies. Two other laws, enacted in 1959, authorized the destruction of magistrates' papers and conditional contracts of sale after a five-year retention period. Previously these records had to be maintained permanently although they had no administrative or historical value. Another act passed a year later eliminated the requirement for an alphabetical index in each land record volume. Since a general index to land records was also required by law, the internal indexes were superfluous.

#### THE CASE FOR A STATE-SUPERVISED PROGRAM

The subject for our discussion has been listed as "The Case for a State-Supervised County Records Program." I don't know how much of a case I have made. Sometimes it is difficult to prove the axiomatic. How could every small county in Maryland (eight of our counties have a population of less than 25,000 each) be expected to have an airconditioned, steel-and-reinforced-concrete stack area for the storage of its records? Can each county purchase a laminator and hire a manuscript-repair technician to keep its records in good physical condition? Can it also be expected to prepare inventories, guides, and other finding aids to make its records available to historians, genealogists, and other searchers,

or to answer inquiries by mail concerning these records? Can an elected official, who has probably had no previous experience in recordkeeping, be expected to be fully informed about modern techniques in this field and to keep abreast of new developments? Two years ago a newly elected register of wills, beguiled by a slick salesman, was on the verge of purchasing a quick-copy machine to use for all current recording in her office—when we intervened. The salesman had stated positively that copies produced by his machine were permanent. But when pressed for proof he admitted that he knew only what he had been told by his company.

The answers to the above questions seem obvious to me. After all, the State for 300 years tried to operate with no supervision over its county records—and as a result lost many of its most valuable documents. In only 26 years the Hall of Records has made good progress toward preserving the older county records; and it has been instrumental in promoting greater efficiency in the current operations of many county offices, although here it has made only a beginning.

---

### ***The Very Dispersion of Such Things***

“You know, dearest—your own clear judgment always showed you—that the notion of isolating a collection of books and antiquities, and attaching a single name to them forever, was one that had no valid, substantial good for its object: and yet more, one that was liable to be defeated in a thousand ways. See what has become of the Medici collections! . . . if I believed it could now pain your father to see his library preserved and used in a rather different way from what he had set his mind on, I should share the strictness of your views. But a little philosophy should teach us to rid ourselves of those air-woven fetters that mortals hang round themselves, spending their lives in misery under the mere imagination of weight. Your mind, which seizes ideas so readily, my Romola, is able to discriminate between substantial good and these brain-wrought fantasies. Ask yourself, dearest, what possible good can these books and antiquities do, stowed together under your father’s name in Florence, more than they would do if they were divided or carried elsewhere? Nay, is not the very dispersion of such things in hands that know how to value them, one means of extending their usefulness?”

—GEORGE ELIOT, *Romola*, ch. 32.