

Governor's Records: Public Records

By ROBERT W. SCOTT

State of North Carolina

GOVERNOR Knowles, distinguished guests, and members of the Society of American Archivists:

This is our first trip to Wisconsin, but I hope it will not be the last. Mrs. Scott and I have been warmed by the hospitality shown us by Governor Knowles and by other distinguished leaders of your State, and in one short day we have come to feel at home with you. We have been much impressed by the vitality of your State government, the beauty of your capitol and your executive residence, the intellectual ferment in your university, and the great work of your State Historical Society.

When H. G. Jones invited me to speak before the Society of American Archivists on the subject of "Governor's Records: Public Records," he told me that a difficult problem faced by archivists in some States is that of preserving the records of outgoing Governors. He pointed out that not all States have a comprehensive public records act such as ours in North Carolina and that in some it is occasionally difficult to persuade the Governor to comply with the statute. This situation was brought to my attention again last fall when I attended a meeting of Governors-elect of the Southern States. I discovered that some of the new Governors were entering offices almost completely devoid of their predecessors' records. Except for perhaps purely "housekeeping" records, outgoing Governors had simply taken their gubernatorial records with them.

Being quite familiar with the eagle-eyed supervision over the records of North Carolina Governors exercised by our State Department of Archives and History, I tried to visualize how it must feel to walk into a luxuriously furnished Governor's office only to find that the memory of the office and its activities, as recorded in documentary form, had vanished. It is frightening enough to assume that high office when there is plenty of documentation. A record-free office may sound attractive to those of you who are inundated by paperwork, but to a new Governor it would appear that the office had no past, and that all progress must begin at the moment of his inauguration.

It seems to me that continuity in government depends upon two requirements: (1) some carryover of personnel from one administration to the next and (2) the records of the preceding administration. The "memory" of activities contained in the records is often more valuable than the unreliable memory of the people who helped carry out the activities. Thus from the standpoint of administration, alone, the records

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of an executive are important to his successor. This is completely aside from two other important considerations: (1) the public ownership of the records made and received during the incumbency of an official and (2) the value of these records for future research unrelated to administrative uses. Combined, the administrative and research values of the records of a Governor dictate his obligation to see that these records are preserved.

I am not here today to tell you professionals what ought or ought not to be done in relation to the documentation of your Governors, but I do not hesitate to tell you that I fully appreciate and support your efforts to assure the preservation of the permanently valuable records of your chief executives. Every State has its own traditions and laws, and what may be appropriate in one State may not be in another. But I believe that one thing is right in all cases: that the people have an interest in the records of the highest-ranking officer of the State and that these records ought to be preserved for posterity; for, even in this day of the thieves of history—the telephone and the informal conference—records (whether written, audio, or visual) continue to form the skeleton on which is woven the story of the past. To destroy this skeleton is to destroy the outline necessary for holding together the fabric of history.

But who am I to tell archivists about the importance of records? I can, however, tell you something about the office of Governor. It is both an office of authority from which policies are promulgated and an office of information to which reports on the administration of the policies are sent. It is also the office to which the public most often submits petitions. Thus it is unique in State government—the one place where the records of decision, direction, and execution come together. As such, it is the most important recordmaking and recordkeeping office in a State. A Governor is perhaps the most personal officer of State government in the eyes of the people. He is their representative; they put him there, and they can send him home. Consequently he is acutely attuned to the people; he seeks their continued good will; he courts them in his efforts to persuade the legislature to approve his program.

In all these respects the Governor speaks—or attempts to speak—for the public. His directives, his appointments, his conferences, his correspondence—all these are representative of his official function. This is true even when he acts in the capacity of head of his political party, for as Governor he cannot completely divest himself of political considerations simply because political considerations involve the public interest. I make these comments only to emphasize that the records of the office of Governor cannot logically be excluded from the statutory definition of public records, which in my State reads: "Public records comprise all written or printed books, papers, letters, documents and maps made and received in pursuance of law by the public offices of the State and its counties, municipalities and other subdivisions of government in the transaction of public business."

Consequently, when one of my constituents writes me with a complaint, commendation, or proposal, that letter comes to me in my capacity as Governor and as a State official "in the transaction of public business"; as such, it is a public record belonging to my State and not to an individual from Haw River named Bob Scott. The point, I understand, has been argued for a long time in some States, and I shall not dwell on it here. When President George Washington left office and took his records with him, he did a great disservice to the Nation, for his successors used his action as a precedent. Not until Franklin Delano Roosevelt—working through a North Carolinian, R. D. W. Connor, the first Archivist of the United States—was there taken an alternate route, which established a new precedent for placing the records of the Presidency under the administration, if not the ownership, of the National Archives. It is hardly logical, therefore, for any State still to cling to the Washingtonian assumption that the records of its chief executive are private property and of no concern to the public.

It is true, of course, that a Governor exercises influence and some authority in matters that may not be *completely* public. He may perform the function of head of a political party and carry on much correspondence dealing strictly with that party's welfare as divorced from the general welfare. If so, and if he keeps party files, a good archivist or records manager can very quickly set up a new file for such materials apart from the records of the Governor's office proper. This is also true with strictly personal correspondence completely unrelated to his official duties. I am not going to argue with the archivist who suggests that everything done by a State employee using State equipment on State time automatically is a public record.

The concept of a Governor's records being public records in North Carolina is as old as the State itself. Even during the Revolution the Governor was required to make all his records and correspondence available for the inspection of the General Assembly each session. In 1782 a law directed the Governor's private secretary to enter into books all incoming letters of "considerable importance" as well as copies of all outgoing letters. Five years later, noting that outgoing Governors had taken some of their records with them, the General Assembly directed that all former Governors return "all dispatches of every nature and kind which they may have received; also the journals of the Council of State, and books or copies of correspondence, during the time they were respectively in office." Nearly a century later, just after the Civil War, another act required that not only the Governor's letterbooks but the original letters themselves be carefully preserved. Then, in 1935, the Public Records Act, authored by your first president, Albert Ray Newsome, placed the records of the Governor on the same statutory plane as other official records of the State.

As a result of these two centuries of law and tradition, the North Carolina State Archives preserves the records of our Governors down to

and including those of my predecessor, Gov. Dan Moore. Ever since its creation the State Department of Archives and History has worked closely with the Governor's office. Our filing system was devised by the Department, and records are transferred annually, leaving in the office only the records of the current year and the previous one. This enables filing equipment to be freed for new records and at the same time makes the records easily accessible to the Governor's office by phone or messenger. If the records of a Governor are public records, it follows that those records must remain in public custody or be disposed of in accordance with State law. Practically every State has—and all States should have—an official archival repository. This, then, is the place for a Governor's records. It is a longtime principle of archival administration that only when public records are carefully retained in continuous official custody are they free from suspicion.

Some State archives (including the one in my State) also handle private papers. Note that I am following the archivist's designation of *records* of the Governor and *papers* of the private individual. When the archival institution also serves as a repository of private manuscripts, a good case can be made for the placement there also of the purely private papers of a Governor. Let me give a personal example. My father served as Commissioner of Agriculture, and his official records for those 12 years were transferred to the Archives. He resigned a few months before the end of his term and ran for Governor and was elected. His gubernatorial records went to the Archives. Then after a couple of years again as a private citizen, he went to the United State Senate. His senatorial records, by tradition, were not considered public records.

One of H. G. Jones's first efforts when he became State Archivist was to go to Washington and urge my father to plan to leave his senatorial records as well as his private papers to the Archives. The "sales pitch" was a logical one: the future researcher could do his job better with all of the documentation relating to my father and his career in the same repository where, though the unofficial papers would be kept separate from the public records, they could be studied together. The argument was so persuasive that my father, who had tentatively planned to leave his nonpublic papers to another institution, agreed to Jones's recommendation.

Within a week after my father's sudden death, a truck from the Department of Archives and History had gone to Washington and transferred the senatorial records to Raleigh. Some time later it was pointed out that other private papers—those relating to the campaign for Governor and for senator, for instance—were still at our farm. My mother and I readily agreed also to transfer these to the Archives where they were placed under restrictions for a specified period of time. Thus, a future biographer can go to the Archives and History Building and find there virtually all of the recorded story of W. Kerr Scott's life and work.

Furthermore, papers of my grandfather are there, and so are many of mine.

It is a comfort to me and to my family to know that these papers are in official State custody, under terms agreeable to us, and that they will be cared for in perpetuity for the use of researchers. No greater monument can be left by an individual or a family than the record of their achievements and failures so that they may be judged as objectively as possible by unbiased historians who are content to let the record speak.

As from time to time we talked about the importance of the preservation of gubernatorial records, we became curious to know what the situation was in other States. To get the answer, Dr. Jones sent a questionnaire to archivists in each of the 50 States asking the status of their Governor's records. The results are interesting if not altogether encouraging. Of the States 47 replied, and of these 24 indicated that the records of their Governors were defined by law as public records. In addition, several other States indicated that though the records were not statutorily defined in such a manner, they were so handled by tradition. Thus it is clear that in nearly two-thirds of the States gubernatorial records are treated as public records. But the questionnaire did not satisfactorily answer the question of which materials among the Governor's records were considered public records. Obviously some of the archivists interpreted the term "Governor's records" to exclude correspondence; and in some instances in which correspondence was included, there was the admission that it was often "weeded" or "screened" or "gone through" before being transferred to the Archives. I can think of no easier way to distort history than consciously to remove from the records materials that may place a public official in an unfavorable light while consciously leaving those that flatter him. Such a procedure clearly represents a lack of faith in the judgment of the people under whose suffrance we serve. I suspect that an effort to color history will be just as unsuccessful as an effort to "manage the news," a charge that has been leveled at high places in recent years.

I realize of course that what I am saying to archivists today I should be saying to my fellow Governors who represent States that have not come to grips with the subject of "Governor's Records: Public Records." I hope, however, that my words will get to them, for I offer these thoughts not in an effort to persuade so much as in an effort to bring attention to the need for consideration of the problem. In the past ten years I have come to feel a kinship with archivists and historians, and I am proud of the pacemaking work of our own North Carolina Department of Archives and History. I am proud of it as the repository of the official memory of our State as well as the repository of the collective memory of my family and of fellow Tar Heels. And I am proud that our Department has furnished your Society with four of its presidents. To any of my fellow Governors who are not familiar with the activities of their State archival agency, I commend it to their attention and favor. A State is the

product of what it has been; it will be what it is in the act of becoming. The story of that progress should be told through the documentation contained in its State archives and in its repositories of private manuscripts.

It may be that some Governors, not having close relations with their archivists, look upon you as egghead custodians of musty old papers that few people ever read. Frankly, I find you an intensely lively and practical group. Witness, for instance, the statement made in reply to our questionnaire by an Archivist of one of the Western States:

... we negotiate for the Governor's records—if he does not let us have them there is not much we can do except prosecute him under a vague untested statute which makes it a misdemeanor (\$100 fine) for anyone who violates the statutory provisions containing the records act. In the interest of self-preservation we have not had the audacity to test this law. Most Governors [of my State] leave office to become U.S. Senators.

I might remind H. G. Jones, A. M. Patterson, Thornton Mitchell, and Fred Coker, archivists of my State, that North Carolina has a similar tradition.

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