

## Shorter Features

MICHAEL J. SULLIVAN, *Editor*

The Shorter Features department serves as a forum for sharply focused archival topics which may not require a full-length article. Members of the Society and others knowledgeable in areas of archival interest are encouraged to submit papers for consideration. Shorter Features should range from 500 to 1,000 words in length and contain no annotation. Papers should be sent to: Michael J. Sullivan, Department Editor, the *American Archivist*, National Archives Building, Washington, DC 20408.

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Editor's Note: Following is Professor Bazillion's updating of his article, "Access to Department Records, Cabinet Documents, and Ministerial Papers in Canada," that appeared in this journal in the Spring 1980 issue.

### Access to Government Information in Canada: Some Recent Developments

RICHARD J. BAZILLION

THE LIBERAL PARTY OF CANADA, in February 1980, returned to power with an absolute parliamentary majority. At first there seemed little reason to believe that the Liberals' position on freedom of information (FOI) would depart from that put forward in their 1977 Green Paper on access to official documents. When the government introduced Bill C-43, in July 1980, significant contrasts with earlier Liberal attitudes became apparent. The new legislation reproduces the access and appeals provisions of the Conservatives' bill (C-15, October 1979), while resolving some of the ambiguities in the Clark government's proposal. Dropping the insistence on minister-

ial prerogative found in the Green Paper, the Liberals now concede judicial review of administrative decisions to deny access. They also accept the Conservative idea of an information commissioner and, going further than their predecessors, confer on third parties the right to intervene when their interests are affected.

Of great concern to researchers are the types of government information that are exempt from public access. Some of these exemptions, for example those citing cabinet documents, draft legislation, and advice tendered by civil servants, are consequences of a Westminster-style political system. Others, such as the following ex-

clusions, are based on the statutes or on practical necessity, and include information

- (1) "obtained in confidence from a foreign, provincial or municipal government" or from "an international organization of states";
- (2) concerning the administration of criminal justice;
- (3) gathered in confidence by the Royal Canadian Mounted Police on behalf of a provincial or municipal government;
- (4) "which could reasonably be expected to threaten the safety of individuals";
- (5) of a "financial, commercial, scientific or technical" nature, belonging to the government, which might be misused;
- (6) the confidentiality of which is protected by the Privacy Act;
- (7) scheduled for publication within ninety days;
- (8) that might prejudice the outcome of particular tests or audits being conducted by the government.

The Ontario Commission on Freedom of Information and Individual Privacy, which reported in September 1980, substantially agrees with C-43's list of exemptions. Based on an array of research studies prepared by scholars and legal experts, the commission's report will guide the architects of FOI legislation for Ontario. The commission rejects judicial review because of its complexity and expense. It recommends instead a Tribunal of Fair Information Practices. Although the tribunal's decisions may be appealed to a court, access disputes will probably be resolved through the independent review process. Costs are thus borne by the province, not, as in the case of the federal legislation, by the citizen who is seeking access.

A comparison of C-43 with the Ontario approach to FOI suggests that an acceptable balance now exists between the citizen's desire for access to government information and what must be the researcher's paramount regard for the quality of his sources. Because policy documents are both exempt from disclosure

under federal and provincial access legislation and protected in the archives for a generation, ministers and their deputies are spared excessive public scrutiny during the formulation of policy. At the same time, C-43 meets the three standards insisted on by proponents of FOI, including the Ontario Commission: (1) it establishes as a general principle the public's right to access to government information; (2) it sets forth a reasonably precise list of exemptions; (3) it provides for an external review of decisions either to permit or deny access. The parliamentary system retains enough administrative secrecy to function in its traditional manner, but unnecessary and arbitrary restrictions on access are removed. Yet the passage of C-43 and the eventual implementation of the commission's recommendations, both welcome developments, will leave a couple of stones still unturned.

Two tasks remain to be accomplished before Canada achieves the highest degree of FOI consistent with its political traditions and institutions. The first of these is to revise thoroughly, or even to repeal, the Official Secrets Act of 1939. In a study submitted to the federal Commission of Inquiry into Certain Activities of the Royal Canadian Mounted Police, M. L. Friedland, Dean of Law at the University of Toronto, pointed out that "while there is no direct relationship between freedom of information laws and the Official Secrets Act," it was clear to him that "changing [the Act] is a necessary psychological precursor to open government." The problem is that Section 4 of the Act does not distinguish between subversion and the simple leaking of information by a federal employee. According to a recently released cabinet paper, the government concurs: "The leakage provisions of the Official Secrets Act are at variance with the general objectives of the Access to Information legislation. Consideration of Access legislation will necessitate that, sooner or later, Section 4 . . . is modified to be more compatible with the new legislation." Section 71 of C-43 in fact protects department heads from prosecution for "the disclosure in good faith of any record . . . pursuant to

this Act or for any consequences that flow from such disclosure." Thus, the most onerous feature of the Official Secrets Act seems to be effectively, if not definitively, circumvented with respect to ministers and their deputies.

Revision of the Official Secrets Act is related to the second task implied in Canada's recent steps toward FOI. That assignment is to devise a more precise classification system for security-connected material. The Ontario Commission goes so far as to deny the need for security classification, because "we are concerned that the ability of public officials to design and implement their own *ad hoc* marking systems is likely to lead to an excess of such

markings, and encourage the maintenance of such levels of secrecy well beyond those which we have identified as defensible in this report." This is a position more easily defended at the provincial level, where security and intelligence questions of national consequence rarely arise. Ottawa, for its part, may well restrict the application of security classification to those documents falling into the exempt categories defined in C-43, but is unlikely to abandon the system entirely. By wielding the *Confidential* stamp with greater restraint, the government can uphold the principle that the public's right to official information is limited only by the need to keep relatively few matters secret.

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## The Practicum: A Repository View

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A WORTHWHILE REPOSITORY practicum program is currently difficult to achieve. Two major barriers exist: the lack of comprehensive standards and requirements for internship, and the widespread absence of adequate administration by academic departments offering practicum courses. These factors compel repositories to formulate their own operational policies, if the practicum concept is to reach its full potential.

An archival agency must have a realistic understanding of what it can expect from involvement in a practicum, before the first eager student arrives. On the positive side, such arrangements encourage a closer relationship with faculty and students and build support for the repository. In addition, interns provide helpful assistance if they are properly trained, supervised, and treated. Unique instructional opportunities and improved professional standards emerge from well-managed internships.

The educational service and labor product of a practicum program can also be impressively highlighted when justifying an archival operation.

Yet, to be successful a practicum demands a substantial commitment from the host agency. Considerable staff time is required to educate and supervise students adequately, and few of them will ever work beyond a sub-professional level, given the limited duration of an internship. Professional staff time is exchanged for sub-professional student time. Properly handled, interns are not considered cheap labor. If they are, the purpose of the practicum is destroyed and the repository can count on student apathy or resentment to detract markedly from their work.

The practicum is above all else an educational vehicle. For this reason, a repository should have a fundamentally sound operation to offer interns, including functional stability, preliminary control over

holdings, and a clear service mission. Also, students should be exposed to basic archival procedures such as arrangement and description, diversified reference services, and reprography. The most important requirement, however, is the availability of an experienced and professionally trained staff for the instruction and supervision of students. The brief tenure and extensive instructional needs of interns can cause problems when a staff lacks patience, time, or competency.

Practicum students are the joint responsibility of the host repository and the sponsoring academic institution. Cooperation and support must be provided by the school, particularly with respect to frequent personal contact with both student and repository during the internship. Academic instructors overseeing practicum courses should monitor student progress and insure that the instructional purpose is met. Repositories considering practicum arrangements should feel sure that the collaborating educational institution is adequately committed to the program before agreeing to participate.

A preliminary discussion with the academic instructor and a personal interview with the student are necessary to insure that the potential intern meets certain requirements. Minimally, students should have a background in history or a related field and show some evidence of self-motivation. Students must also have advance familiarity with the five theoretical elements outlined in the SAA "Guidelines for a Graduate Minor or Concentration in Archival Education" (*American Archivist* 41 [April 1978]: 255-56). Probably the most satisfactory instructional method is to marry the theoretical and the practical through integrated lecture/laboratory courses, allowing students to apply theory as they learn it and to share their practicum experiences in discussion sessions. Regardless of the course format, a written contract describing the host agency's expectations and the responsibilities of the students is necessary. The contract informs all concerned of the full scope of the practicum and provides a standard for evaluation of student performance. The contract system

enforces consistent program quality while permitting exploration of specialized student interests.

Before they are allowed to participate in a practicum, interns should demonstrate some interest in pursuing an archival or related career. The startling discovery of Robert M. Warner, in 1972, that well over half of all students enrolled in archives courses had no intention of entering the field demonstrates that a great deal of educational effort is wasted. Time and effort are better spent if internships are geared to education to be applied professionally. Repositories have a definite interest in promoting this, as practicum students with a career goal in mind will produce superior work and exhibit a better attitude than will the elective-seeker. Similarly, repositories should avoid association with internship offerings that are vaguely defined or are unsupported by a separate theoretical component. Such courses are worse than useless, particularly as students without a theoretical background will have trouble understanding how and why even the most basic archival activity is performed. Few repositories have much to gain by attempting to instill both necessary theory and practice in students of questionable ability and interest.

Restrictions facing an archival agency, such as staffing shortages or peak user periods, will demand flexible scheduling for individual practicum arrangements. Students should, however, be expected to complete the required number of hours within a reasonable time. A procedure for formal evaluation of students by both repository staff and the academic instructor must also exist. Supervising staff should make note of a student's work quality, interest, and attendance, for a portion of the final grade, with a written project assessed by the instructor making up the balance. Student critiques of the practicum are usually helpful and should be encouraged. Occasionally, all internship programs will have to deal with a student whose work or conduct is unsatisfactory. The repository must have the option to terminate such a student's activity, but only after corrective efforts have failed.

An internship should expose students to the widest possible variety of archival concerns. Since repository facilities differ, it is unrealistic to propose a rigid format. Minimally, a student needs an introduction to processing and to basic reference service. The arrangement and description of primary source materials is the area in which a student can learn the most about archival work. Arranging materials imparts a feel for the stuff of history and the special treatment it needs; description provides insight into the most challenging task an archivist faces. Care should be taken to use manageable and straightforward bodies of material for practicum projects. Reference service performed by students must be uncomplicated but require imaginative use of sources. This is best managed through answering mail queries and perhaps some supervised reading-room reference assistance.

The SAA's "Program Standard for Archival Education: The Practicum" (*American Archivist* 43 [Summer 1980]: 420-22) is a worthy document, but it ignores the limitations facing many repositories. The guidelines, for example, demand that interns receive exposure to acquisition and appraisal activities. If the host repository can afford students such opportunities, these requirements should by all means be met. Acquisitions at most archival agencies, however, are usually sporadic and unpre-

dictable; projects such as on-site surveys and donor contact are therefore difficult to standardize. Students are better off avoiding the complex area of appraisal unless they work in close concert with staff. The SAA guidelines also call for interns to learn and perform preservation techniques, despite the fact that this activity also varies among repositories. Even so, before a student can reliably perform tasks such as cleaning and mending paper, deacidification, encapsulation, and binding repair, he will need more training by qualified personnel than is possible in a multi-emphasis practicum. All students must, of course, have the opportunity to learn proper storage and handling methods as well as basic reprographic procedures in the course of their stay at the repository.

The prime objective of every practicum program must be the broadening of the student's practical knowledge. A repository should strive to provide an experience that is both challenging and varied. If all requirements are successfully met, the host agency stands to profit through sound student work. And by impressing tried and true principles upon the minds of aspiring archivists, the benefits of a successful program extend to the profession as a whole by upgrading the quality of its membership. To garner all the possible rewards, individual repositories must establish intelligent guidelines for the practicum.

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