

Shorter Features

CHRISTOPHER BEAM, *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 Christopher Beam, Shorter Features Editor, the *American Archivist*, National Archives and Records Service (NLTN), Washington, DC 20408.

The Evidential Value of Nontextual Records: An Early Precedent

MEYER H. FISHBEIN

WHEN ARCHIVISTS ACCESSION machine-readable and other nontextual records, they must consider the admissibility of those records as evidence in court. The rules of evidence are quite complex and are beyond the scope of this paper or the competence of most archivists. Nonetheless, custodians of records may be called upon to answer specific questions about subpoenaed records, especially about their provenance and their disposition since accessioning.

In the early 1970s, when the author worked with machine-readable records

at the National Archives, he found references to an 1838 Delaware lawsuit, *Rowland v. Burton*, 2 Del. (2 S. M. Harrington) 288 Super, that established an important precedent for the evidential value of nonconventional records. Noah Burton, a free black, sued James Rowland for nonpayment of wages for work on Rowland's farm. Burton claimed that Rowland owed him \$25.40 for a period of two to three years and offered a notched stick as a record of his work.

Despite the legal disabilities facing

free blacks in Delaware at that time, Burton successfully sued Rowland before a justice of the peace. Rowland appealed to the state supreme court on the grounds that there was no contract and the plaintiff could not prove performance of work. The supreme court upheld the award to Burton.

For Chief Justice Samuel M. Harrington, the key issue was the admissibility of the notched stick "as a good book of original entries." In his study of free blacks in the antebellum South, entitled *Slaves Without Masters*, Ira Berlin cited testimony that the use of notched sticks was a fairly common method of recordkeeping among enterprising but illiterate freedmen. Harrington may have known of this practice, though he did not note it in his decision. Instead, he relied on the common law principle that regular entries made in the routine of business at or near the time of a transaction were admissible as evidence.

Most states have since codified the rule of evidence used by Harrington in uniform business records acts. Business records, including those of nonprofit institutions and of all levels of government, are considered relevant to court cases if the custodian of the records or another qualified witness verifies their identity and testifies to their mode of

preparation, and if the records are "made in the regular course of business, at or near the time of the act, condition, or event." The Internal Revenue Service, in its ruling IRB No. 1971-3, January 18, 1971, applied this rule and the Harrington decision to "punched cards, magnetic tapes, disks and other machine-sensitive data media." Similarly, courts have accepted computerized census reports as admissible evidence.

Support documentation is necessary both to explain machine-readable records and to insure their admissibility in court. Records custodians must be prepared to explain to a court how data were entered, how they were processed, who had access to a system, and what kinds of information the system generated. Logs of users of a system—heretofore considered a trivial form of documentation—are important because they list the persons who may have gained access to the main frame and adjusted the software. While the need to appraise each item of documentation for accessioned machine-readable records appears a burden, this requirement has at least one benefit to archivists: it may demonstrate to producers of machine-readable records the necessity of creating and maintaining conventional support documentation.

SPINDEX in a University Archives

MARIE K. ELSÉN

CAN A SMALL UNIVERSITY ARCHIVES take advantage of a computer program developed for the vast holdings of the National Archives and Records Service? SPINDEX (which stands for Selective Permutation Indexing) is a NARS pro-

gram designed to index the finding aids for archival and manuscript materials. The archives of St. Cloud State University in Minnesota has been using SPINDEX to produce a register of its final inventory (Figure 1) and an index

| | DATES | BOX | FOLDER | LOCATE | ENTRY NO |
|--|--|-----|--------|--------|----------|
| President, Office of Records, 1894-1965 | Primarily reports and resolutions presented to the State Board. See also the State College Board and its predecessors. Quantity: 9 in. | | | | |
| Presidents, Normal Schools | 1894-1918 | 1 | 1 | B2.5c | 1 |
| Presidents, State Teachers Colleges | 1926-1949 | 1 | 2-5 | B2.5c | 1 |
| Presidents, State Teachers Colleges Minutes | 1927-1931 | 1 | 6 | B2.5c | 1 |
| Reports and resolutions | 1900-1919 | 1 | 7 | B2.5c | 1 |
| Reports and resolutions | 1947-1965 | 1 | 8-17 | B2.5c | 1 |
| Records, 1965-1969 | Files are arranged alphabetically by subject. State colleges are filed under city heading; college system data is under State College Board and State College System. Quantity: 24.25 ft. | | | | |
| "A" miscellaneous | 1951-1970 | 1 | 1 | B5.3a | 1 |
| American Association of School Administrators | 1958-1969 | 1 | 2 | B5.3a | 1 |
| American Association of University Professors | 1965-1969 | 1 | 3-4 | B5.3a | 1 |

Figure 1. Register

| TITLE | DATES | FOLDER | LOCATE | ENTRY NO |
|---|-----------|--------|--------|----------|
| AASA SEE American Association of School Administrators | . . . | | | |
| ABC PROGRAM ABC Program | 1969 | 6 | B5.3a | 1 |
| ACADEMIC AFFAIRS Academic Affairs | | | | 3 |
| Academic Affairs (Vice-President) | 1950-1969 | 7-9 | B5.3a | 1 |
| Assistant Vice President for Academic Affairs | 1966-1970 | 9 | B6.4a | 3 |
| Correspondence | 1962-1973 | 1-10 | B6.7b | 3 |
| Correspondence | 1962-1973 | 11-20 | B6.7a | 3 |
| General records, 1876-1915 | | | | 3 |

Figure 2. Register Index

(Figure 2) of its records and has found that these computerized aids provide better access at a lower cost than do the traditional card files and inventories.

SPINDEX has produced finding aids that have greatly improved intellectual control over the content of the collections. With this system it is now possible to provide access to a number of subjects in a given folder and to relate that information to similar information in other accessions. Without data processing the manipulation of such quantities of information would be prohibitive and satisfactory intellectual control would be lost.

The program has other advantages as well. SPINDEX-generated finding aids

take less time to produce than do manually produced aids with comparable access points. Content analysis for the register and subject indexing at the folder level are done simultaneously with processing. A single input into a data file under SPINDEX allows easy manipulation of the data to produce the register, the index, and the keyword list or thesaurus of controlled vocabulary terms. A major advantage of this system is that information can be easily located, corrected, deleted, amended, or rearranged without reprocessing.

A computerized index can provide more detailed information than can the traditional index cards. The needs of most users of university archives are

| |
|--------------------------|
| ACADEMIC FREEDOM |
| 53.10 |
| 63.20 |
| 65.13 |
| ACADEMIC POLICIES |
| 63.22 |
| 66.34 |
| ACADEMIC PROGRAMS |
| 35.17 |
| 37. 3 |
| . . . |

Figure 3. Student Newspaper Index

quite specific, and this kind of index leads the user directly to the relevant file units, thus providing quicker access to the information in the records. The SPINDEX program also makes it feasible to index the student newspaper (Figure 3); this is particularly useful because demand for information on student-related activities is high and the newspaper is often the only source of such information. Retrieval is by year and issue.

The use of SPINDEX permits a university archives to produce its finding aids at minimal expense. The St. Cloud State University Archives prepares its

data file with a Control Data UTS 400 computer terminal that is shared with other departments and processes the data with an IBM 370 in St. Paul. The last run of the register (114 pages), the index (101 pages), and the keyword list (31 pages) cost approximately \$28 and such runs will be necessary only two or three times a year—that is, each time a major accession has been processed.

SPINDEX may have other uses as well. St. Cloud State University may use SPINDEX to schedule records for transfer to the archives and to compile bibliographic indexes on local, regional, and state information in the library. Numerous possibilities exist for sharing information or developing cooperative projects with other institutions. Finding aids may be exchanged readily with other institutions if copies are produced on Computer Output Microfilm (COM), or a holdings guide may be developed by extracting register data during accessioning. The usefulness of any index to such a guide depends on the adoption of a common terminology.

SPINDEX has been useful for the staff and patrons of the St. Cloud State University Archives. The archives plans to expand use of the SPINDEX program, thereby furthering the university's goal of improving access to information.