

Archival Acquisitions: Legal Mandates and Methods

by **KATHY HALL**

In introducing their 1972 *Draft Model Law on Archives*, Salvatore Carbone and Raoul Guêze lamented that “despite the desire of archivists to obtain documentation of a cultural nature, archive legislation in many countries remains vague and ambiguous.”¹ The recommendations for federal state legislation which they then propose include the establishment of a hierarchical structure of national, state, and state branch archives; the scheduling of both public and private records; legal enforcement of the schedules; and expropriation clauses. In essence, the model law defies a documentary cultural asset to escape its jurisdiction and the watchful eyes of either the director of the national archives or the territorially competent director of state archives.²

A preliminary analysis of a cross-section of Canadian archival legislation can easily evoke a positive reaction to the premise behind the model law, if not to the law itself. Various Canadian archive acts, by-laws, and statements of purpose seem to cry out for consistency, definition, or a uniform declaration of logistical purpose; they vary almost as greatly in depth, latitude, and potential for interpretation as the institutions they created and, hopefully, serve. Yet, in the specific realm of acquisition mandates, how far can any such definition or binding legality be carried? Conversely, and in the best Canadian tradition, can practice, precedent, and interpretation be relied upon to keep a wide variety of institutions satisfied as they pursue their respective acquisition programmes?

Addressing, but not necessarily answering, these and other questions can be most easily accomplished by examining the ways and means by which archives acquire two distinctive types of records which may be broadly described as public or institutional records and private collections. The legal and quasi-legal mandates under which archivists work generally contain extensive definitions, or descriptions, of public or institutional records and, for the most part, the archivist is unquestionably legally entitled to collect and preserve the records of his sponsor. The existing or potential problems lie in the nature and the application of the tools — or the lack thereof — that the archivist is allocated for the fulfilment of this

1 Salvatore Carbone and Raoul Guêze, *Draft Model Law on Archives: Description and Text* (Paris, 1972), p. 13.

2 “Territorial competence” can be loosely defined as ‘having a specific geographical designation for acquisitions jurisdictions.’

mandate. Specifically, there may or may not be a records schedule under his or other control and, even if there is such a schedule, it can be argued that it will not necessarily guarantee a steady flow of archival quality records to the archives. How, then, does the archivist live up to the mandate of the institution/repository and his responsibilities to his sponsor?

Even the most cursory examination of archival mandates for acquiring private collections, however, can tempt one to agree with Carbone and Guêze, for this is indeed a vague and ambiguous collecting area. For the most part, archivists are functioning well within vague parameters which could be loosely termed “territorial competence”; nevertheless, there is a multitude of cases where strong arguments could be made for more specifically defined mandates. Archivists are often called upon, for one reason or another, to give a subjective definition of the historical significance of an individual or an organization to the nation, a province, a region, or an institution. On the basis of this assessment of that reputation, archivists accept or pursue — or do not accept or pursue — a given collection. Following the same logic, archivists must then accept the accolades, the recrimination, or, one hopes infrequently, the culpability of an acquisition, a successful redirection, or a collection irrevocably lost. Would more rigid definitions of collecting areas and acquisitions policies — all other things, such as staff, facilities, and funding, being equal³ — be an asset or a hindrance in this decision-making process? If archivists do not opt for legal parameters, what other options, including maintaining the *status quo*, are available?

Public and Institutional Records

Most archivists would agree that their primary, or at least a major, responsibility is to collect, preserve, and make available the records of their sponsor, be it a government, a private corporation, or an educational institution. In performing this task, their effectiveness is governed by their legal right to pursue an acquisition programme; the mechanisms provided for the operation of that programme; and that elusive quality, personal suitability — the creativity and drive required to employ both personal and legal means in establishing, implementing, and monitoring the programme. In this section, I propose to examine the acquisition tools provided for archivists in various repositories to determine the level of success achieved in their application and, therefore, in the fulfilment of the archivists’ respective mandates to acquire and preserve their sponsors’ records. Few statistical studies have been done to measure the actual success rates, but a lack of complaints regarding the flow of archival quality records into the archives has been taken as an indicator of a relatively successful programme.

The objective of the Public Archives of Canada “is the systematic preservation of government and private records of Canadian national significance in order to facilitate not only the effective and efficient operation of the Government of Canada and historical research ... but also the protection of rights and the enhancement of a sense of national identity based on archives as the collective memory of the nation.”⁴

3 In deciding to redirect a donor to another repository, an archivist must consider the physical preservation of the collection and, to some extent, the convenience of the user. In this paper, it is taken as given that archivists will use these criteria, as a debate on this particular issue is beyond the scope of the presentation.

4 *Strategic Approaches of the Public Archives of Canada, 1983-1988* (Ottawa, 1982), p. 2.

The *Public Records Order* of 1966 and the *Access Directive* of 1973 did give the Dominion Archivist the authority to approve either the destruction of public records or their transfer to the Public Archives of Canada and also established records management as a branch of the Public Archives. The *Access Directive* states:

Every department shall apply the schedules and standards issued, established or approved by the Dominion Archivist pursuant to paragraphs 7(d) and (e) of the *Public Records Order* and, subject to sub-section (4), transfer to the Public Archives in accordance with such schedules and standards all public records in its possession.⁵

In theory, it appeared that this would result in a steady flow of archival quality records from departments to the Public Archives and the *Public Records Order* and *Access Directive* were wholeheartedly welcomed.⁶ In 1979, however, thirteen years after the *Public Records Order* came into force, there was concern that the Public Archives was not in full central control of federal government records. In response to this concern, Bryan Corbett and Eldon Frost, two archivists from the Public Archives' Federal Archives Division, undertook a study of eleven selected government departments: they examined the quality and type of records received and the methods by which those records came to be transferred to the Archives.⁷

The results of the study were, for ardent proponents of the records schedule as a direct and effective means of acquiring archival quality records, disappointing. Schedules, where they existed, were found to be inadequate and "fully 30% of archival textual records received [by the Public Archives] between 1965 [and] 1978 were acquired independently of the records scheduling system."⁸ This conclusion that the records schedule mode of acquisition was not working was supported by a 1982 study done by Marcel Roy of the PAC's Records Management Branch.⁹ The pertinent question, if Corbett and Frost are correct in arguing that records scheduling "is the most efficient and effective means of acquiring records,"¹⁰ is why the system is not working. For the Public Archives of Canada, this question is particularly important, as the *Access to Information Act*, the *Privacy Act* and Chapter 460 ("Records Management") of the Treasury Board *Administrative Policy Manual*, both directly and indirectly, place even greater emphasis on scheduling records and "confirm the role of the Public Archives staff as consulting experts for federal departments and agencies in a number of areas including records retention and disposal."¹¹ The questions implicit in the establishment and the successful

5 *Access Directive*, 1973, 2(2).

6 Jay Atherton, "The Archivist and the Records Manager," paper given to a joint meeting of the Ottawa chapter of ARMA and the Eastern Ontario Archivists Association, and the subsequent discussion, 18 January 1983.

7 Bryan Corbett and Eldon Frost, "Preservation of Federal Archival Records: Acquisitions Methods," unpublished report, (Ottawa, 1979). pp. 2-3. A revised version is published in *Archivaria* 17 (Winter 1983-84).

8 *Ibid.*, p. 5.

9 Atherton, "The Archivist and the Records Manager," and *Strategic Approaches*, p. 10. It must be noted that some departments are very good at both scheduling and transferring records. The remarks are addressed to those which are not.

10 Corbett and Frost, "Preservation of Federal Archival Records," p. 6.

11 *Strategic Approaches*, pp. 8, 10; Canada, *Access to Information and Privacy Acts*, 29-30-31 Elizabeth II, c. 111. These were passed in 1982 and proclaimed in 1983.

operation of a system of records schedules can, however, be directed to include institutions other than the Public Archives.

Many suggestions have been offered to explain why schedules have not resulted in the steady transfer of archival quality records from all departments to an archives: the low level of prestige accorded to records managers; the lack of departmental understanding of the role and function of the archives; and the too-flexible application of some schedules have all been cited as problem areas. Yet, in the case of those departments which either do not schedule records or do not transfer them, one wonders if there are not other reasons.

The legislation, in general, permits archivists to examine schedules, scrutinize records, and advise on retention periods before the schedules or amendments are approved and many archivists are actively involved in the whole process. Nevertheless, the records of some departments are underrepresented in archival holdings. Again, why? Should archivists be taking a more active role in selling their "product" to departmental authorities and records managers, who, through a lack of understanding of archives, may fear that a total loss of control of their records would ensue after their transfer to the archives? Should archivists be even more involved in creating schedules, as opposed to just approving them, and in informing records managers regarding the type of records which should be scheduled for transfer or selective retention? Or should the legislation be revised to give archivists access to the power to enforce the authority and responsibilities which are vested in them in obtaining the records of recalcitrant departments?

The New Brunswick case is instructive. The *Archives Act* includes the preparation of "records schedules governing the retention, destruction and transfer of public records"¹² in the statement of duties of the Provincial Archivist. This is supported by a vigorous enforcement clause which states:

Where any dispute arises between the Provincial Archivist and a department concerning the establishment or implementation of a records schedule, the Provincial Archivist may submit the matter to the [Public Records] Committee and after an investigation the Committee shall make recommendations to the Lieutenant-Governor in Council with respect to that dispute.¹³

The Lieutenant-Governor in Council may then make direction with respect to the dispute through an order-in-council.¹⁴

Although the system has only been in operation for a short time in New Brunswick, there is substantial reason for considering it a success: there has been no dispute over the scheduling and transfer of records and consequently the order-in-council authority has not had to be used. Various reasons have been advanced for the apparent success, including the small physical size of the province and its bureaucracy, the establishment of Records Management as a branch of the Archives in conjunction with the valuable and, at times, "hand-holding" field work

12 New Brunswick, *Archives Act*, 1977, Chapter A-11, 5(1)(b).

13 *Ibid.*, 7(2). The Public Records Committee consists of the Provincial Archivist (chairperson), the Deputy Minister of Justice, the Comptroller, the Secretary of the Treasury Board, and others.

14 *Ibid.*, 7(3)

done by the records managers; the public relations work undertaken by the Archives staff and their persuasive use of the argument that scheduled records are easier to locate; and the physical movement of departments into new quarters with the concomitant need to dispose of dormant records.¹⁵ In sum, limited physical size and "human factors" have added significantly to the success of records scheduling and transfer. It will be interesting, nevertheless, to see whether or not the order-in-council route will become necessary and, if it does, if it will work.

Saskatchewan offers an interesting comparison to New Brunswick. The Saskatchewan *Archives Act* established the Saskatchewan Archives Board in conjunction with the University of Saskatchewan and made provision for the transfer of public records to that Board. The Provincial Archivist is "responsible for the selection of those non-current documents of historic interest for transfer to the Saskatchewan Archives Board."¹⁶ On the surface, then, the Archives Board appears to have a great deal of authority and power, and a literal reading of the legislation can lead one to believe that a high proportion of public records of archival quality should have been transferred to the Archives. This, however, is not always the case.

The Government of Saskatchewan does not have a provincial records management programme and the acquisition of departmental records has been on an *ad hoc* basis which relies heavily on the good relationships established between records managers and archives personnel. That is to say, in those cases where departments have records managers, the acquisitions programme has been generally effective. In departments without records managers, however, the *Archives Act* provisions for transfers have, at times, been quietly ignored. From this, it may be speculated, although not proven conclusively, that valuable records may have been lost through "back-door" disposal. An attempt to lay charges against a department caught in such a violation of the *Archives Act* failed, as the Attorney General refused to act, yet a valuable lesson was learned through the employment of the political/official network. The Provincial Archivist drew the matter to the attention of the responsible minister who in turn effected a department-wide understanding that dormant records should be selected by, and then transferred to, the Archivist.¹⁷ The long-term results of such an *ad hoc* and personal acquisition programme are not difficult to envision, despite the good will that has been established with some departments and individuals.

In the event that the Saskatchewan *Archives Act* and any other legislation which may have the same kinds of problems were to be reviewed and revised in order to enhance the power of the Archivist while maintaining the "personal touch," perhaps a page could be taken from the Manitoba experience. There a powerful Public Documents Committee, chaired by the Provincial Archivist, meets at regular two or three week intervals to make mandatory decisions regarding the disposition of records, as the Committee must approve all destruction orders prepared by the departments. In addition, the government records staff of the Archives is actively involved in the records scheduling process. They not only give advice on completed

15 Marion Beyea, Provincial Archivist of New Brunswick, Interview, 2 February 1983.

16 Saskatchewan, *Archives Act*, R.S.S. 1978, Chapter A-26, 9.

17 Ian Wilson, Provincial Archivist of Saskatchewan, Interview, 3 February 1983.

schedules, but often have direct input into the creation of schedules. This mix of legality and cooperation is further abetted by the solid rapport and trust that has been established between the departments and the Archives.¹⁸

City archives provide smaller case studies of records management systems that are either in place or in process. The Toronto City Archives, for example, has a full, mandatory records schedule entrenched in By-law No. 538-1979. In addition, the Director of Records and City Archivist — in this case the same person fulfils both functions — must approve the destruction of records unless he designates them as archivally valuable. In the latter instance, the records are transferred to the Archives. One might be tempted to suggest that this mandate was made in heaven, especially as there is an orderly and systematic flow of records from the departments, through the Records Centre, to the Archives.

Again, the reason for success comes into question. In Toronto, the archivists have input into the scheduling forms which the records analysts take to the Departments and the records analysts and archivists work as a team toward a common goal: the identification and retrieval of records and the permanent preservation of those with long-term significance. Support is also forthcoming from the political level. City officials are accessible to the Archivist, and they also tend to view the Archives as an integral part of the “team” and to make use of it.¹⁹ This feat was not accomplished by legislation alone.

This very people-oriented criteria for success is a part of the developing records management system at the City of Ottawa Archives. Here again, the City Archivist is blessed with an administrative organization that should permit the establishment of a systematic records schedule and the transfer of archivally valuable records to the Archives: records management is a branch of the Archives and the Archivist reports directly to the City Clerk. The federal experience, however, illustrates that structure is not sufficient in and of itself and the development of an effective acquisition programme will depend to a great extent on the diplomacy and interpersonal skills of the City Archivist and her staff. This process has already been set in motion. In consultation with the Records Manager, the City Archivist has approached departments regarding the classification and disposition of their records and has met with considerable success in establishing trust and in overcoming departmental fear of losing control of their records.²⁰ It remains to be seen whether or not an established schedule, even in such a relatively small organization as a city government, will provide a steady and orderly flow of archival quality records to the Archives.

In the realm of university records, the number and variety of archives precludes a thorough study here. In the general case, although certainly not in all instances, university archivists are responsible for the records of their parent institutions. For example, the *University of Alberta Archives Policy* states:

Deans, directors, a chairmen and department heads shall designate a person in each Department to act as liaison officer with the University Archives to develop practical arrangements for the orderly transfer of

18 Peter Bower, Provincial Archivist of Manitoba, Interview, 2 February 1983.

19 Scott James, Toronto City Archivist and Director of Records, Interview, 3 February 1983.

20 Flora Unter, Ottawa City Archivist, Interview, 3 February 1983.

University documents to the Archives at appropriate intervals. The University Archivist will draft a written procedure to be followed and the Departments' approval will be sought in implementing the procedure.²¹

A survey of the literature on university archivists, however, forbids any kind of conclusion regarding acquisitions based on this one example.²² The organizational complexity, individuality, and jealously guarded personal autonomy found within academic institutions can mitigate against the undertaking of effective records management programmes, but one suspects that such a programme, combined with a dedicated and skilful archivist capable of persuading those individuals to release their records, would go a long way toward ensuring the preservation of permanently valuable records of a university.

Some corporations in the private sector have also recognized the need to establish archives in order to preserve the historical documentation of the organization and to provide a reference service. The Stratford Festival Archives is defined as being the records repository of the Festival and its mandate is to preserve "all materials produced or collected in connection with Festival activities." In addition, it is urged that "the co-operation of theatre personnel ... be enlisted to preserve continuous, comprehensive records."²³ Although the emphasis is upon cooperation within the organization and not upon a rigid structure, a reporting mechanism does exist: the Archivist reports to the Board of Governors and to the Artistic Director. The arrangement is, to this point, working well.²⁴ The success of the Festival Archives, however, is linked implicitly to the appreciation by all involved of the fact that the primary function of the Archives is to serve the Festival and its personnel — an understanding that many public records archivists might well have cause to envy.

A variation on the corporate archives theme is provided by the Ontario Hydro Archives. Created long after a functioning records management system was in place, the Archives is becoming the repository for dormant corporate records, subject to the special nature and security needs of engineering records. The infrastructure, the records schedule, is in place to provide for a steady transfer of documents to the Archives; it remains for the Archivist to define his territory and earn the right to identify archival quality records at the time of their creation.²⁵ The future success or failure of the archival programme will depend upon the ability of the Archivist and his staff to provide quality reference and retrieval service and thereby prove the value of archives to the corporation.

The success of an acquisition programme in the field of public or institutional records rests on three foundations: the strength of the legal mandate, the tools available for the implementation of the programme, and the initiative of the

21 University of Alberta Board of Governors, *University of Alberta Archives Policy — Documents Retention and Disposal*, 1974.

22 *Ibid.*; Ian Wilson, "Canadian University Archives," *Archivaria* 3 (Winter 1976-77), pp. 17-27; David Rudkin, "University Archives: An Academic Question" *Archivaria* 8 (Summer 1979), pp. 138-140; *The Beaton Institute of Cape Breton Studies*; Pamela Cornell, "Collecting Yesterday," *Graduate*, University of Toronto Alumni Magazine, March-April 1983, pp. 17-19.

23 Stratford Festival Archives, *Statement of Policy*.

24 Daniel Ladell, Stratford Festival Archivist, to K. Hayman, 28 September 1982.

25 Chris Norman, Ontario Hydro Archivist, Interview, 2 February 1983.

archivists involved. Much of the success or failure of the programme rests upon the power that backs up the authority to acquire records;²⁶ however, other forces do come into play. The complexity and size of the organization, and the inherent limitations placed on the archivist *vis-à-vis* the accessibility of key departmental personnel in large organizations, are important factors. In addition, the placement and stature — profile if you will — of the archives within the whole bureaucratic structure as well as the perceived role and function of the archives must, to an extent, affect the archivists' ability to run successful acquisition programmes.

I would suggest, however, that personal initiative is also a key. Just how far can legal mandates, records schedules, and enforcement clauses take archivists toward an effective acquisition programme for public or institutional records? Particularly in the latter case, what is the risk of alienating the records creators if a heavy-handed club is wielded? How much responsibility should lie with the archivist to get into the front lines and work to acquire what he believes he should have? It is time for archivists to seize the initiative, to look beyond their legislation, and to create more personal dynamism in the records cycle. Archivists can no longer sit back and complacently await the arrival of records. Instead, they must be also be educators and diplomats, for it is their responsibility to make themselves and their programmes known and understood by their sponsors, the records creators, and the records managers. The product of such a personal approach — the realization that the archives *is* an integral part of the organization — will serve sponsors, users, and archivists.

Private Collections

Few, if any, archivists would take exception to an archivist collecting the records of his sponsor²⁷ and, whether or not these programmes function in practice, in theory the mandates are relatively clear-cut and well defined. Such is not the case in the realm of private collections. Here, archivists are empowered to acquire, by gift or purchase, non-official or "private" documents relating to the historical development of the nation, a province, a region, or an institution.²⁸ This is effectively what Carbone and Guêze termed "territorial competence"; yet, in practice, often acrimonious disputes over who had the "right" to acquire certain collections indicate that such concepts have been neither sufficient nor practicable in private acquisitions. This is not the forum for pointing fingers or indulging in "archives bashing," yet it is generally accepted that many repositories now hold collections for which they are apparently not either "territorially competent" or even the most "territorially competent." If, however, such a division of jurisdictions appears to be the most

26 Barbara Craig, "Records Management and the Ontario Archives, 1950-1976," *Archivaria* 8 (Summer 1979), pp. 3-33; Wilson, "University Archives," p. 2.

27 Municipal, school board, and court records, while technically public records, fall into the grey area of acquisition mandates. Most provincial archivists are authorized to accept such records; however, the methods employed range from a substantial microfilming programme in Manitoba to precise scheduling in New Brunswick and Saskatchewan. Implicit in most programmes is a desire to leave the records, if possible, in the location of creation. There are, however, some provinces where these acquisitions remain *ad hoc* at best and some municipal records have been lost.

28 Some repositories do have very specific acquisition mandates for private collections and these must pertain directly to the corporation. Examples are the Anglican Church of Canada and the Stratford Festival Archives. In addition, some, like the Maritime History Group at Memorial University, St. John's, Newfoundland, have specific thematic mandates.

equitable solution, how can it be made to function better? Should the applicable legislation be revised to include more precise collecting statements? If not, what are the alternatives?

Over the course of the last decade, some repositories have attempted to resolve internally such vague definitions. The Manuscript Division of the Public Archives of Canada has developed the Systematic National Acquisitions Program (SNAP) which sets the criteria for active acquisition during the lifetime of the donor.²⁹ Similarly, the Saskatchewan Archives Board has established a list of collections to be acquired and has vigorously pursued what could almost be termed records scheduling in the private sector.³⁰ In the City of Toronto Archives, only private collections that bear directly on the city government and its operation and personnel may be added to the archives holdings.³¹

Due to such policy "statements," publications such as the *Union List of Manuscripts*, and professional conferences, there has been a marked decrease in overt competition among archivists for collections.³² Archivists are now more aware of the territorial or thematic jurisdictions, either in statute or precedent, of archives other than their own. Regardless of this, however, there are still incidents of perceived "territory raiding" that provide evidence that the measures taken thus far are insufficient.

The possible alternatives for structuring discretionary acquisitions are legion, but only three will be offered here. One option is to revise existing legislation to include precise definitions of both collecting areas and, more importantly, such hoary collecting adjectives as "nationally," "provincially," and "locally" significant employed therein. Legal recourse in cases of infringement would also be required. In 1973 Robert S. Gordon, the Director of the Public Archives of Canada's Manuscript Division, proposed the establishment of a "clearing-house" of programme information that could, over time, develop into a type of central registry for programmes and a "court" of arbitration for areas of conflicting or overlapping interests.³³ For those who find these alternatives too authoritarian and confining on individual action, there is the recourse to more extensive communication and cooperation within the *status quo*. Such a concept has been relatively successfully employed by several states in the United States.³⁴

Whatever alternative, or combination of alternatives, is chosen, I suggest that they will not work beyond what might be considered clear-cut cases of discretionary acquisitions. A major area for potential dispute is the case of an individual or

29 Robert S. Gordon, "The Protocol of SNAP: Demarcation of Acquisitions Fields," *Canadian Archivist*, vol. 2, no. 4, pp. 48-54, p. 52.

30 Interview with Ian Wilson.

31 Interview with Scott James.

32 "Acquisitions Policy: Competition or Co-operation?", *Canadian Archivist*, vol. 2, no. 1, pp. 21-43.

33 Gordon, "SNAP," p. 51.

34 In the United States, formalized communication and cooperation is termed "networking." The concept is not unknown in Canada. It has been addressed by various individuals, organizations, and commissions; however, aside from confirming the desirability of such a system, little tangible progress has been made in that direction.

organization that is, by any definition offered, of local, provincial, *and* national significance. The case of the T.C. Douglas papers, for example, is illustrative of many possible difficulties and some potential solutions.

T.C. "Tommy" Douglas was the Premier of Saskatchewan for seventeen years, the national leader of the New Democratic Party for ten years, and a member of Parliament for two different British Columbia ridings for the seventeen years which comprised his second term as a federal M.P. Who, then, had the right to claim his papers? By most definitions, the Saskatchewan Archives Board, the Public Archives of Canada, and the Provincial Archives of British Columbia all had legitimate claims. The resolution to the problem came from Douglas himself when he opted to divide his papers between the Saskatchewan Archives Board and the Public Archives of Canada. Papers reflecting his "provincial career" had, for the most part, been left in Regina when he donned his federal cap. The papers which document his later years as a federal Member of Parliament, and which compliment the CCF/NDP, J.S. Woodsworth, and David Lewis papers, are in the custody of the Public Archives of Canada, along with the latter collections.

Douglas' decision meant that the division of his collection was achieved without archival blood-letting, although Saskatchewan could have pressed a claim that they "were there first." But, does this arrangement really solve the problem? What about the researcher who requires both sets of papers? Should he have been considered when the Public Archives approached Douglas? And what of the principles of *provenance* and *respect des fonds*? Are these cardinal "rules" violated by this relatively amicable arrangement. Would a future exchange of microfilm present a solution to these issues, if indeed, the funding were ever available for such an enormous project?

Unsolicited donations also present a number of thorny problems that do not appear to be readily solvable by the alternatives offered. Even the most clearly defined collecting mandates and the most effective communication and cooperation cannot prevent an individual from offering a collection to a repository that is "unsuitable" to its collection mandate. Possibly such a donor could or should be referred to a more likely institution. However, how does one resolve the problem of a donor who, for one reason or another, will not be referred? Similarly, how far can you legitimately push a referral? Does the archivist accept the donation to ensure preservation at any cost, as has been done in the past, or does he stand firm on a strict interpretation of the collecting mandate and refuse to accept the collection? In the latter case, what level of culpability should an archivist accept if the collection is irrevocably lost? In the case of bequeathed collections, of course, the archives' hands may well be hopelessly tied to "unsuitable" collections.

Finally, one must consider the user. As archives are not, according to their own press releases, simply paper warehouses, they have an obligation to the researching public to make their collections available. Various publications and diffusion programmes have made archival holdings more widely available, but these are expensive and, consequently, selective. In determining the disposition of private collections, then, how far should archivists consider user convenience? To what extent should user accessibility be a determining factor in reaching a conclusion? And, in the search for a just disposition, do archivists then use a thematic, geographical, or similar criteria?

The acquisition of private collections is indeed the grey area of archival legal mandates and each problem acquisition, instead of providing a route to satisfactory and conclusive answers, only reveals further questions tucked beneath the surface. I do not pretend to have the answers, but I will posit one further question that might encompass the discretionary and unsolicited acquisitions problem. Would clearly defined collecting mandates — if, indeed, such definition is possible given the size of the country, the variety of institutions collecting archival materials, and the mobility which can ensure an individual's significance in several geographic areas — be a service or a disservice to the archival profession, to sponsors, and to users?

At first glance, much of the archival legislation in Canada is either inadequate or vague, or both. Yet the archives of this country appear to be functioning well and the most common complaint heard at gatherings of archivists are about a lack of staff, facilities, and funding to accommodate current holdings. Many archives have enormous backlogs of unprocessed or partially processed accessions, but is this situation a result of, or in spite of, legal acquisitions mandates?

In the realm of public records, a good case can be made for the strengthening of some of the legislation. A well-conceived and well-run records management programme, with more input from the archivists at the formative stages, could go a long way toward separating the wheat from the chaff of the records and less time and manpower would be spent on screening various series of dubious or no archival value once they arrive in archives. At the same time, such a system would offer a better, although certainly not infallible, guarantee that important records would be scheduled and ultimately transferred to the archives instead of remaining in basements or, on occasion, being irretrievably lost.

Caution must be exercised, though, as no system is perfect. Archivists must take a more active part in the initial scheduling and the subsequent transfer of records. Subject to organizational and staff constraints, they must move into the front lines and work directly with records managers and departments in the preliminary identification of archival quality records and later follow through to see that the schedules are being implemented. If they are not being implemented, archivists must then find out why. Good public relations work, salesmanship if you will, and a hands-on approach will go a long way toward solving the problems. Departments and their records managers will understandably be more reluctant to transfer records if they do not know about or comprehend the services provided by the archives or if they lack a solid understanding of exactly what types of records should be scheduled for permanent preservation. Legislation alone is not likely to prove sufficient.

Turning to the acquisition of private collections, the legislation is so vague that it provides only the most rudimentary of guidelines. Many of the policies enunciated and pursued have little or no support in legislation or other legal mandates, but apparently they work. Problems arise in connection with jurisdictional disputes, unsolicited donations, and collections which are relevant to the collecting programmes of two or more institutions. The definition of jurisdictions might serve to answer very rudimentary complaints, although it might also create more crises than it could possibly resolve. I do not doubt the efficacy of clearing some of the grey areas, but I cannot support a rigid adherence to binding regulations. Archivists must

continue to be flexible, to operate on a give-and-take basis, and to strengthen the ties of communication and cooperation as fully as possible. After all, when all is said and done, are archivists not, first and foremost, dedicated to the preservation of the historical record?