

QUEBEC MANUSCRIPT COLLECTIONS
AND "L'AFFAIRE DES MANUSCRITS"

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"L'Affaire des Manuscrits" extended from mid-January to mid-March of 1973. It began when the Minister of Cultural Affairs of Quebec ordered the implementation of a confidential directive which had been issued on June 9, 1972. The directive established a jurisdictional division between the collections of the Bibliothèque Nationale and the Archives Nationales. It gave the A.N. full rights to all manuscript holdings under the control of the ministry, thus requiring the B.N. to give up its manuscript collections and restrict its activities to printed, published works.(1)

As a result of the implementation of this directive, the Chief Librarian of the B.N., Mr. Georges Cartier, resigned on January 23rd. He called for the retraction of the directive and, among others, was supported by Jacques Hébert, Director of Editions du Jour, Luc-André Biron, Consulting Archivist, Hubert Perron, General Secretary of l'Association Canadienne des Bibliothécaires de Langue Française and Bernard Amtmann, a Montreal Rare Book Dealer. The professional associations of librarians, writers and publishers of Quebec also supported the Cartier position. This group organized a publicity campaign in the press, on radio and television and eventually published a pamphlet explaining their cause.(2) The arguments presented concentrated upon the classic librarian - archivist conflict over the treatment of manuscripts, the incompetence of Quebec archivists, the lack of dynamism at the Archives Nationales and the legal implications of the transfer of the manuscripts for other private or semi-public holdings.

1 The actual text of the directive has remained confidential although sections of it were discussed by Mr. Guy Frégault, Deputy Minister of Cultural Affairs, La Presse (24 Jan. 1973), p. E 17, and Le Devoir (24 Jan. 1973), p. 7.

2 A complete list of press reports can be found in the pamphlet by Gaëtan Dostie, L'Affaire des Manuscrits ou La dilapidation du patrimoine national (Montreal, Edition du Jour, 1973), pp. 89-93.

The questions of manuscript responsibility and the competence of the Archives Nationales have already been discussed in articles by Bernard Weilbrenner, Assistant Dominion Archivist and André Vachon, Quebec Archivist.(3) This article will treat the legal implications of the transfer upon other collections in the province. This legal issue is of primary importance since the lack of explanation regarding the powers conferred upon the Archives Nationales by Bill 2, "The Cultural Properties Act", has left a number of curators uneasy concerning the future of their holdings.

The group supporting Cartier exploited this uneasiness to the fullest. The pamphlet, introduced and edited by Gaétan Dostie, left the clear implication that the transfer of documents from the Bibliothèque Nationale would set a precedent which the Archives Nationales could use to seize other collections in the province. In presenting a list of libraries with manuscript collections, Dostie noted that,

...il est à prévoir qu'elles devront se départir de leurs fonds de manuscrits au profit des Archives nationales si le ministère va jusqu'au bout de la logique qu'il entend imposer, car, si la Bibliothèque Nationale doit être depouillée de ses manuscrits, en vertu de ce principe, toutes bibliothèques subventionnées par le gouvernement québécois devraient subir le même sort.(4)

Besides listing a number of threatened library collections, Dostie printed letters or reports by Bernard Amtmann, Luc-André Biron and the Association Canadienne des Bibliothécaires de Langue Française. All of them expanded upon the danger of confiscation which was inherent in the Bibliothèque Nationale precedent.(5)

As to the transfer of the manuscripts, the Ministry of Cultural Affairs claimed that the directive resulted from a desire to eliminate the inefficient and expensive duplication services at its two branch institutions. After a number of negotiating sessions, the Bibliothèque Nationale and Archives Nationales had not been able to reach a satisfactory understanding on dividing collections, acquisitions and purchases. In the light of this breakdown in negotiations, the final divisions were decided by the Ministry. The Minister of Cultural Affairs, Mme. Claire Kirkland-Casgrain, divided the jurisdictions of the two institutions by merely enforcing the letter of the Bibliothèque Nationale du Québec Law. In that law the chief librarian was given the right to acquire "documents" which were defined as "any publication of any kind reproduced by printing or any other graphic process, including

3 Bernard Weilbrenner on responsibility for manuscripts, Le Devoir (2 February 1973), p. 4. André Vachon on the respective competence of Bibliothèque Nationale and the Archives Nationales, La Presse (2 February 1973), p. A 4.

4 Dostie, pp. 9-10.

5 Ibid., pp. 54-55, 73 and 74-75.

phonographic and photographic processes."(6) Thus, the Bibliothèque Nationale had never possessed the legal right to build up a manuscript collection.

The legal basis of the argument that manuscript collections might eventually be taken from private or semi-public institutions was never explained in the Dostie pamphlet. It appears to have been based upon a loose interpretation of the Cultural Properties Law, however, nowhere in that law is there provision for the seizure of such holdings. The law is based upon legislation in Mexico, France, Italy and Israel as well as upon recent studies of the exportation of artifacts by UNESCO.(7) As enacted on 8 July 1972, the Cultural Properties Law creates a commission, the Cultural Properties Commission of Quebec, consisting of twelve members to be appointed by the Lieutenant-Governor in Council.(8) This commission is to proceed, through inspectors, to recommend the classification of works of art, historic properties, historic monuments or sites and archaeological properties or sites as "cultural properties". Archival collections are treated in the context of "historic properties", which the law defines as "any manuscript, printed item, audio-visual document or man-made object whose conservation is of historic interest, excluding an immovable."(9) Under the terms of the law, once holdings are classified as "cultural properties" they may not be transported outside the province of Quebec without the permission of the minister. They may not be destroyed, altered or alienated without giving notice to the minister and, if offered for sale, the minister has prior rights to purchase them at the market price.

The only sections of the bill which could lend themselves to Dostie's interpretations are articles 30 and 51 (a). Article 30 specifies that all classified cultural properties must be maintained in good condition, however the sanctions prescribed by the law do not permit the outright confiscation of classified properties even if they are not well maintained. Article 51 (a), in its provisions for expropriation, provides the most probable way of dealing with such cases. Of course, in legal terms even expropriation requires a just compensation for the owner and is far from the implication of seizure raised by Dostie.

In fact, prior to the passage of the Cultural Properties Bill, speakers in the National Assembly generally contended that the bill gave too little power to the Cultural Properties Commission. The fact that the commission had no decision-making authority and could merely recommend the classification of cultural

6 Loi de la Bibliothèque Nationale du Québec, S.Q., 1967, c.24, art. 1 (c).

7 Mme. Claire Kirkland-Casgrain, Debate on the Cultural Properties Bill, Second Reading, 4 July 1972, Journal des Débats, Vol. XII, no. 58, p. 1844.

8 Bill 2, Loi sur les biens culturels, assented to 8 July 1972, 3rd session, 29th Legislature. The French text of this law is printed in Archives 72.2, pp. 50-64.

9 Ibid., a. 1 (b).

properties to the minister was attacked by Jean-Noël Tremblay, Yvon Brochu and Claude Charron.(10) Jean-Noël Tremblay argued that the bill would do nothing to change the basic problem of the lack of budgets at the Ministry of Cultural Affairs. He noted that even if the minister had preferential rights to acquire "cultural properties" at the time of their sale, the enormous prices of such items would make it impossible to take advantage of such legal provisions.(11) Only at one point in the debate did Yvon Brochu ask for further clarification of the implications of the bill with respect to private property rights.(12) The minister did not reply to Mr. Brochu's point.

Despite the fact that under the present laws there appears to be no basis for the confiscation of private or semi-public manuscript holdings, the impact of "l'Affaire des manuscrits" upon the general public propagated a contrary opinion. Due to the implications of this propaganda, a group of archivists and historians from the Montreal area met on April 25th to draw conclusions and future plans from the issues raised. The meeting was held at the Université de Montréal and was presided over by Mr. François Beaudin, University Archivist. At the meeting Mr. Yvon Lamonde of the French Canada Studies Centre at McGill raised the very real problem of the exploitation of the private property question by the Cartier supporters. He noted that the transferring of papers which depositors had specifically donated to the Bibliothèque Nationale had been seen as an infringement of their rights to choose the institutions where their holdings were to be placed. Neither the Minister nor the Archivist had sufficiently explained the reasons for the measure. It was on the basis of this lack of understanding that Dostie had constructed his argument that the precedent posed a threat to other private collections.

The participants at the meeting generally agreed that many private library and archival institutions were preoccupied with the eventual possibility of their holdings being confiscated under the Cultural Properties Law. Rev. Lucien Campeau, the Jesuit historian, noted that there was no procedure for appeal should the Cultural Properties Commission judge that certain collections were not adequately maintained and should be expropriated.

In commenting upon this criticism, Mr. Gilles Héon of the Archives Nationales stated that neither the Archives nor Bibliothèque Nationale constituted separate legal corporations. Both of them and both of their collections belonged to the Minister of Cultural Affairs. He pointed out the fact that the ministerial directive had been issued only after the failure of several attempts to resolve the respective jurisdictions of the two institutions. Nevertheless, he suggested that, having listened to the discussion, the group should address a resolution to Mr. André Vachon, Quebec Archivist, expressing its concern with the lack of explan-

10 Debate on the Cultural Properties Bill, Section Reading, 4 July 1972, Journal des Débats, XII, 58, pp. 1846-47, 1851, 1857.

11 Ibid., pp. 1848-49.

12 Ibid., p. 1853.

ation regarding the Cultural Properties Law. Therefore, Mr. Lamonde proposed a text resolving "that the Archives Nationales du Québec provide the concerned organizations (Association des Archivistes du Québec, Institut d'Histoire de l'Amérique française, Rare Book Dealers, Association de professeurs d'histoire, Fédération des Sociétés historiques...) with the information necessary to interpret and understand the sections of Bill 2 which relate to archives." It was unanimously adopted.

On the question of preparing a comprehensive reply to the Dostie publication, there was a general concensus that the pamphlet contained so many contradictions, errors and statements taken out of context that a reply would be self-defeating. Instead, it was resolved that the director of the revue Archives should prepare a special edition devoted to the larger issues raised by the affair. It was further resolved that the Quebec Archivist, Mr. André Vachon, should be invited to describe in detail the different attempts to negotiate the problem of archives and library jurisdiction with the former director of Bibliothèque Nationale.

WORTH REMEMBERING

The publication of an archives report provides an opportunity for comment on the nature of historical records, a subject which cannot be too frequently brought to the attention of those who produce or use documents whether of a public or private character. The progress of an archives agency in the selection and preservation of historical records cannot be appreciated or assessed unless it is based on a knowledge of the nature of source materials which are required for permanent reference purposes, including current or future research by historians and social scientists. Consequently, at the risk of re-iterating comments in previous reports, it must be emphasized that the most important historical records are those documents which are produced by a government department, a private business, a church, a club, a labour union, indeed by any kind of organization, or by an individual, in the course of day to day business. The concept that the only valuable records are those which tell of cyclones, rebellions, floods, hangings, "first" things, "oldest" things, "biggest" things, and similar unusual phenomena is still too common. It is a concept which has produced and is producing a widespread destruction of significant records and reflects a false sense of values--for it denies that there is significance and worth in the life and labour of the mass of mankind. The historian's interests are as varied and inclusive as the problems and concerns of every day life; the archivist's interests cannot be less comprehensive.

Saskatchewan Archives Board, Fourth Report...June 1, 1948 to May 31, 1950, p. 7.