

Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police. Second Report: Freedom and Security under the Law. Ottawa: Supply and Services Canada, August, 1981; xxii, 1257 p. ISBN 0-660-10950-6. \$12.00; **Third Report: Certain R.C.M.P. Activities and the Question of Government Knowledge.** Ottawa: Supply and Services Canada, August, 1981; xv, 527 p. ISBN 0-660-10953-0. \$7.00.

Archivists seem to me too often to believe that their work is marginal to society when actually it is becoming more and more central. Rarely a day goes by now without the national news carrying a story that touches on the disposal or the accessibility of government records, on freedom of information or the privacy of the individual. Canadian society is slowly working out its attitudes to these questions, attitudes which will soon be embodied in very important new legislation at the federal and provincial levels.

The McDonald Commission was created for larger purposes but it has a surprising amount to say about federal government records and access to them. For the first time in Canadian history a well-funded and well-publicized public inquiry commission has delved into questions which are at the heart of current archival debates in Canada, at least among government records archivists. What do the McDonald commissioners say about these questions?

The commissioners have made a total of 285 recommendations, 30 of which pertain to the creation and destruction of government files, the release of personal information held in government files and freedom of information. Another twenty recommendations deal with security clearances for federal public servants and the use of government records in that process. The recommendations are collected together at the end of Volume II of the Second Report, pp. 1067-1116. Recommendations 11-14 deal with new and very restrictive criteria for security intelligence agencies to use in creating files on individuals. They also suggest procedures for monitoring file creation and for the destruction of files. Recommendations 25-27 and 271 would permit deputy ministers to release personal information held in departmental files to the RCMP or to the new security intelligence agency for use in their work. Such data as name, address, phone number, date and place of birth, occupation and physical description would be made available by the departments on written request. "All other personal information held by the federal government with the exception of census information held by Statistics Canada" would be made available through a system of judicial warrants. Recommendation 120 recommends that the existing series of files held by the RCMP Security Service on homosexuals be reviewed with a view to their destruction. Recommendations 112-133 deal with security clearances for federal public servants. Essentially the Commission recommends that the Public Service Commission become responsible for security clearances and that the rule of the RCMP and the new civilian security agency be restricted to providing information from their files to the PSC when requested. Recommendations 132 and 133 provide for an appeal to a Security Appeals Tribunal for anyone denied a security clearance and the release to the appellant of the documentation on which the denial was based for use in his appeal. Recommendations 134-155 deal with entry to Canada, the granting of Canadian citizenship and deportation. If accepted by the government, these particular recommendations would mean that many more immigration records would be subject to review by third parties and would be more likely to be produced before review bodies than is now the case. (See especially Recommendations 146, 147 and 155.) Recommendation 177 deals with disputes between the Solicitor General and the Auditor General regarding access to and release of information from the files of the security intelligence agency.

The commissioners show a good understanding of the importance of government records and the need to have clear policies on questions of access to them. They do not mention the Public

Archives of Canada in their recommendations and they do not recommend any role for that institution in the various changes which they recommend for handling government records in future. At some points they seem positively ignorant of the PAC's legislated responsibilities, as when they say in Recommendation 14, "we recommend that the security intelligence agency's files, documents, tapes and other matter be erased or destroyed only according to conditions and criteria set down in guidelines approved by the Solicitor General." As we know, destruction of records should be approved by the Dominion Archivist even though they may be exempted records under the access directive of 1977.

No PAC staff member or official is listed among the over 300 names given by the Commission in the appendices of the Report as having been asked to give evidence, information or advice to the Commission. I think this lack of participation was unfortunate and that the Report is weaker because of it. It is interesting to note that the Commission on its own called 150 witnesses from 10 different government departments, had informal meetings with 21 senior federal and provincial civil servants, consulted with 22 Canadian academics, commissioned 21 formal research studies, was formally briefed by government officials on 26 different topics. Yet, casting the net as widely as they did for information inside the government of Canada, they did not include the Public Archives of Canada, the Association of Canadian Archivists or the Canadian Historical Association in their searches.

Considering that the Commission has made recommendations on access to government records, freedom of information and privacy of the individual as well as Part IV of the Canadian Human Rights Act and Bill C-43, the advice of these bodies was all the more missed. As things now stand, if the Commission's recommendations are followed, significant changes will be made in the handling of government records which are actually or potentially the responsibility of the PAC. For example, will the PAC now contact the head of the new civilian security intelligence agency to advise him about the records of his agency with a view to their proper scheduling and eventual acquisition by the Public Archives of Canada? If not, how will the research community ever get access to the records of this important new public body? The research community has had very poor success getting access to historical records still held by the RCMP.

A number of other chapters in the Report will interest archivists. Among those chapters I found most interesting are *Second Report*, Volume I, Part III, Chapter 5 on Access to and Use of Confidential Information Held by the Federal Government—Criminal Investigations; Chapter 6 on Access to and Use of Confidential Information Held by the Federal Government—Security Service; Part V, Chapter 3 on The Scope of Security Intelligence (including a section on the RCMP, the labour movement and the Department of Labour); Chapter 4 on Information Collection Methods; Chapter 8, Relationships with Other Departments, Provincial and Municipal Authorities; *Second Report*, Volume II, Part VII, Chapter 1 on Screening of Personnel for Public Service Employment; Chapter 2 on Immigration Security Screening; Chapter 3, Citizenship Security Screening; Part IX, Chapter 5 on Some Methods of Criminal Investigation and Their Control: Section E, Access to Confidential Information; and Annex 1 to the Report on Access to Medical Information.

How well did McDonald do? In their recommendations on the major problems before them, the commissioners have relied on the introduction of civilian control and third party review as elements in the future life of the RCMP and the new civilian security intelligence agency. These controls, the commissioners believe, will render future abuses less likely. They seem to believe that Canadian police and security forces can be allowed wider powers than ever as long as they are accountable somewhere for the use they make of those powers. I prefer a society which restricts police powers more stringently than McDonald suggests, a society which says at the outset that there many things it does not want its police to do under any circumstances.

That said, it is the more unfortunate that the commissioners did not apply the same principles of civilian control and third party review to all the records questions which they considered. Most important of all, the Report is silent on the question of the disposal of RCMP records. What we needed from McDonald was a solid recommendation that the RCMP open its historical records to public research itself or transfer them to the Public Archives of Canada. Precisely what Canadian historians cannot do now is create a third party review of the history of the RCMP and its activities in the twentieth century based on the original documents. The Public Archives of Canada currently lists in its public inventory of RCMP records 3,514 volumes. At least eighty per cent of these records pre-date 1920 and the other twenty percent which is of later date consists almost entirely of routine material. There is almost nothing on the history of the kinds of RCMP activities that concerned McDonald.

This situation is a tragedy in many ways and it also constitutes a denial of basic democratic rights. As a matter of principle it should be possible for the public to review all publicly funded activities. It may make sense to delay such review for some period of time but not so long that the review have no relevance to contemporary policy formation. The McDonald commissioners regarded one of its main responsibilities "to restore public trust in a public institution which has fallen under suspicion" (Second Report, vol. 1, p. 13). Personally, I do not believe that this objective will be fully achieved in this country until our writers, researchers and historians are free to inquire fully into the history of the RCMP as a means of understanding its current role and activities. If the RCMP is to be trusted by Canadians, if it has nothing to hide, why does it continue to hide even its old records from legitimate researchers?

By not entering the deliberations of the McDonald Commission, the historical and archival communities in Canada have helped to maintain an unhealthy silence which injures their own professional interests and those of the Canadian people at large. We wait still for some force in this country, private or public, to come forward to make the RCMP accountable for its handling of the public records it holds.

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Journals of the Colonial Legislatures of the Colonies of Vancouver Island and British Columbia 1851-1871. Edited with an introduction by JAMES E. HENDRICKSON. Victoria: Provincial Archives of British Columbia, 1980. 5 volumes, illus., index, appendices, 2441 p. ISBN 0-7718-8183-5 bd. \$150.

In this monumental set of five volumes, running in all to nearly 2700 pages, Dr. Hendrickson has assembled and printed verbatim the journals of the Council Executive Council, Legislative Council and House of Assembly of Vancouver Island (1851-1866), and those of the Executive Council and Legislative Council of British Columbia (1864-1871). He has prefaced them with an illuminating thirty-page introduction, and in appendices has added such key documents as the Royal Grant of Vancouver Island to the Hudson's Bay Company and Governor Blanshard's instructions. He has also reprinted the lengthy debate on Confederation that took place in the Legislative Council in 1870—the only attempt at a Hansard-like report of the proceedings of any of the councils, and not included in the journals because the Council was sitting in Committee of the Whole. Other items in the appendices include the colonial estimates and accounts (highly relevant in view of the almost perpetual wrangling over matters of finance) and schedules recording the progress of legislation through the councils and assembly. Each volume has a detailed index.