



THE FEDERAL HERITAGE BUILDINGS REVIEW OFFICE

OBSERVATIONS ABOUT THE FHBRO

Prepared for Herb Stovel by: Henri A. Langlois
March 30, 1992



Parks Canada
Parcs Canada

Canada

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NOTES:

1. The following observations are based on my seven years as the first Chairman of the FHBRO (1982-89) and on my five years (1975-80) as a Senior Program Analyst in the Treasury Board when I was responsible for, among others, the Canadian Parks Service (CPS) Program and as such served as the TB member on the Federal Advisory and Coordinating Committee on Heritage Conservation (FACCHC).

2. See also the Article "A Policy for the Conservation of Heritage Buildings" by H.A. Langlois, in the AP Bulletin, Vol XVIII, No. 1 & 2., 1986, p. 47.

1. WHAT FORCES SET IN MOTION THE INITIAL FHBRO PROGRAMME?

Long before the Federal Heritage Buildings Review Office (FHBRO) was established in 1982, the Federal Government had been concerned with the protection of Canada's valuable assets, whether natural, cultural or architectural and had taken some action:

- 1885: the first natural park reserve was created at Banff, Alberta.
- 1919: the Historic Sites and Monuments Board (HSMB) was set up.
- 1935: the National Parks Act was passed.
- 1951: the Massey-Lévesque Report (Royal Commission on the Development of the Arts, Letters and Sciences, 1949-51) pointed out the specific need to protect the nation's heritage buildings.
- 1953: the Historic Sites and Monuments Act was adopted and the HSMB was thus formalized.
- 1970: the Canadian Inventory of Historic Building (CIHB) was established as a research tool for the HSMB.
- 1973: the Heritage Canada Foundation was created, with initial funding from the Federal Government, to promote the protection of the built environment.

It is perhaps no coincidence that Heritage Canada was born the year after the World Heritage Convention (WHC) was adopted by the United Nations, a convention which required the signatory States to take appropriate measures, whether legal or administrative, to protect natural, cultural, or architectural assets based, for the latter, on the principles of the 1964 Venice Charter. Because Canada's Constitution delegates to the Provinces the power to legislate in the field of property rights, the Federal Government could not act alone. Thus, during the 1970's, most Provinces enacted their own heritage-oriented legislation which enabled Canada to officially sign the WHC in 1976 and to adopt the Venice Charter.

All this activity led the Federal Cabinet to establish, in 1976, the FACCHC, a senior interdepartmental committee given the broad mandate to study heritage issues. One of these was the design of a proposed National Register of significant buildings, given that such a Register was an internationally accepted tool for the management of heritage resources. Most of the necessary provincial legislation was now in place and the CPS was given the mandate to develop a Canadian Register of Heritage Properties (CRHP): it was to be a joint federal-provincial programme to identify and protect eligible properties, both privately and publically-owned, and included some direct funding for their upkeep. However the proposal was rejected, in 1979, by the Federal Treasury Board who nevertheless directed, at that occasion, that some protective measures be developed for federally-owned buildings. The FACCHC went back to work and produced the Policy on Federal Heritage Buildings which was approved by Cabinet in 1982. In 1987, the Treasury Board issued its own Directive to all government departments and agencies to promulgate the Policy and its implementation systems and procedures.

More recently (1988) and perhaps as a spin-off from the activities of the FHBRO, the Canadian Parliament passed an Act designed to protect specifically heritage railway stations. Such an Act became necessary because the Policy on Federal Heritage Buildings, contained in a Directive issued by the Treasury Board under the Financial Administration Act, did not apply to Crown Corporations (because they are governed by their own specific enabling acts) and even less to private companies. Yet the CNR, CPR and VIA Rail controlled a large number of railway stations which, although arguably valuable heritage assets (some were designated as sites of national historic significance), were not protected in any way. Now they are, through a programme similar to the FHBRO's but implemented by the HSMB.

**2. a. WHO TOOK THE LEADERSHIP ROLE?
b. WHAT WAS THEIR MOTIVATION?**

a. The Canadian Parks Service (then Parks Canada) had for many years (at least since 1953, if not 1919) taken the lead in advocating the protection of cultural resources as well as natural ones. Hence it was a natural move to set up the FACCHC to bring together all the interested departments and agencies, especially the large ones which controlled a high percentage of the federal building stock, to discuss heritage issues and related problems. The CPS had been aided and abetted in this work by the Heritage Canada Foundation who had pushed, since its creation, for a Register as the essential element before protective

measures could be effective. The final player was the Treasury Board who, while rejecting the CRHP, nevertheless recognized that some definitive action was required, at the federal level at least.

b. The motivation was clear and simple: a desire to protect valuable assets and take appropriate measures to achieve that end. The Venice Charter had pointed the way and the WHC had coalesced on-going international efforts. In Canada, the CPS had the motivation and the mandate, since 1935, to protect nationally significant resources "for the enjoyment of future generations" and the Provinces also had enacted enabling legislation for their own programmes: all the pieces were in place.

3. WHAT MANDATE DID THE FHBRO INITIALLY GIVE ITSELF?

The FHBRO was created by the 1982 Cabinet Decision which also approved the Policy on Federal Heritage Buildings. Under that Policy the FHBRO was given a mandate to:

- identify and evaluate federal heritage buildings and maintain a Register of designated ones.
- manage federal real property to promote conservation and continued use.
- provide federal heritage buildings with the degree of protection required by their architectural and design integrity, their urban setting and landmark value and their historical importance.
- encourage continuity of use and function for federally-owned heritage buildings.
- recognize local, regional and provincial policies and priorities and explore all reasonable alternatives before making decisions about federal heritage buildings.
- attempt to provide continuing protection to federal heritage buildings which may leave federal government ownership.
- encourage other levels of government and the private sector to conserve their own heritage buildings.

4. WHAT FEARS/EXPECTATIONS GREETED THE ARRIVAL OF THE PROGRAM?

a. The "fears" which the new Policy engendered in all line departments were very real and based on practical issues rather than on a fundamental objection to the aims of the Policy. Large, operationally-oriented departments felt that the Policy would:

- slow down or even hamper their planning processes.

- restrict them in the type and kind of "development" they could or could not do.
- establish a decision-making authority outside their own structure.
- lead to a centralisation of decision-making when the trend was to decentralise both financial and operational decisions.
- constrain the freedom of action required by their own specific operational needs.
- conflict with their mandates under their own enabling legislation.
- prevent them from updating, modernising, disposing of or demolishing structures in response to changing needs and technology.
- conflict with modern requirements demanded by many mandatory "codes".
- deny them the additional resources required to implement the new Policy.

These fears were, if not well-founded (except the last one), at least honest ones in the context of the time. A large part of the FHBRO's early work was to attempt to allay those fears as much as possible.

b. On the other hand the "expectations" which the new Policy raised were more philosophical and subjective and were to be found within already "heritage-oriented" organisations. They expected that the Policy would:

- be an answer to all their prayers.
- respond to growing public pressures to better protect the built environment in general and not only specific "monuments" or buildings of great stature (i.e. to democratize conservation activities).
- fulfill the already legislated mandate for heritage conservation at both the federal and provincial levels.
- enable Canada to live up to its WHC commitments.
- foster continuing and more appropriate use of valuable buildings.
- provide the owners of such buildings with the means to better manage their inventory of buildings in general and heritage ones in particular.

5. WHAT PROMPTED THE ARTICULATION OF THE FHBRO POLICY IN 1987 BY THE TREASURY BOARD?

Three important events preceded the publication of the 1987 Circular (1987-13) by the Treasury Board:

- Works
after
- on
- a. In 1985, the Royal Canadian Mint building in Ottawa was undergoing extensive interior renovations. At one point the contractor faced a problem which necessitated, according to him, the demolition of a fairly large portion of the exterior stone walls. At that point the project came to the horrified attention of the heritage community, the FHBRO and the public, in that order. Although the Mint is a Crown Corporation, the building itself was the property of Public Canada: therefore the Policy on Federal Heritage Buildings was applied and, a fairly active round of discussions, the building was "rescued" as much as was possible. Because the Mint is a high profile building the FHBRO received much publicity, both internal and external, all of it positive.
 - b. In the same year, the Treasury Board was concerned with how best to manage the Federal Government's real property in general, given the large size of its holdings. Thus the Bureau of Real Property Management (BRPM) was created with a mandate to develop strategies, policies, systems, procedures, guidelines, directives, etc. applicable to all government departments and agencies and covering all manner of real property. The Canadian Parks Service, as a major custodian of property in its own right and also responsible for the Policy on Federal Heritage Buildings across the Government, was included in the discussions with the BRPM about how best to manage real property and heritage buildings in particular.
 - c. In 1986, for the first time in the history of heritage-oriented actions, the Speech from the Throne included as a goal of the Government the protection of heritage resources held by the Government of Canada. No specific legislation was announced or promised at that time, but the mere fact that such a statement was made in that context gave renewed impetus and credence to the actions of the CPS in general and the FHBRO in particular.

These three events, the Mint, the BRPM and the Speech from the Throne, were the catalysts which convinced the Treasury Board that the Policy on Federal Heritage Buildings should be part of the system of Directives issued under the authority of the Financial Administration Act. After the usual reviews and discussions, the elements of the 1982 Cabinet Decision pertaining to the Policy and the FHBRO were promulgated as Circular 1987-13 in March 1987 under the title "Policy on Heritage Conservation of Federal Buildings".

6. HOW DID THIS POLICY DIFFER FROM PREVIOUS PRACTICE?

Before Circular 1987-13 was issued, the FHBRO had been set up within the CPS and had begun operations on the strength of the 1982 Cabinet Decision. The main goals and objectives were the same: protect and conserve heritage buildings through the FHBRO. The first phase, that of identifying which buildings had a true heritage value, was well under way by March 1987. As to specific protection measures, i.e. the control of interventions, much work had also been done and the FHBRO was giving advice and directions to many custodians. The main effort of the FHBRO in the early years was to meet custodian departments to explain the Policy (i.e. allay their fears), to ask them to submit their buildings for evaluation and to convince them that they should integrate the goals of the Policy into departmental practice. It was, by design, rational persuasion rather than direct coercion.

After 1987, departments had to deal with a mandatory Treasury Board Directive which obligated them to follow certain procedures (not spelled out in detail) and to take appropriate measures to protect their heritage buildings and continue to use them. The definition of which measures were "appropriate" and which procedures should be followed on what timetable was the stuff of daily FHBRO interaction with line departments.

In short, the Policy defined in Circular 1987-13 was not, in essence, different from the Policy contained in the 1982 Cabinet Decision: but the Circular gave the FHBRO much more leverage to bring custodian departments to the discussion table on a more regular and more efficient basis.

- 7. a. HOW HAS THE MANDATE ITSELF EVOLVED?**
- b. WHERE DID THE FOCUS ON CONTINUED USE AND PROTECTION OF HERITAGE CHARACTER COME FROM?**
- c. HOW WELL DO YOU FEEL THE MANDATE AS EXPRESSED IN CHAPTER 9 OF THE NEW REAL PROPERTY MANAGEMENT MANUAL RESPONDS TO NEEDS?**

a. Over time the mandate of the FHBRO has been expressed in various places using similar language. But, as mentioned in Section 6, whether one reads the initial 1982 Policy, the 1987 Circular, or Chapter 9 in the BRPM Manual, the mandate remains constant: to identify potential heritage buildings and designate those which have appropriate heritage value; to describe their heritage character in an acceptable manner; to take appropriate steps to protect that character when interventions are planned and to ensure their continued use. The end result is the attainment of the ultimate goal: to pass on such heritage resources to future generations.

b. When the FACCHC prepared its recommendations to the Cabinet in 1982, it was well aware that it should not reinvent the wheel but apply to the Canadian context those concepts already expressed by the world heritage community. The concepts of "protection" and "continued use" were already included in the Venice Charter (Art. 4 & 5), in the UNESCO Recommendations of 1972 (Art. 17 & 22) and in the 1972 WHC itself:

Art. 4: "Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage...belongs primarily to the State..."

Art. 5: "...each State Party to this Convention shall endeavour...:

(a) to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community..."

c. In June 1991, the BRPM issued Chapter 9, "Heritage Buildings", as part of the Real Property Management Manual and said that the new text "reiterates the essence of TB Circular 1987-13". There was no intention to change or amend the concepts of the earlier Policy in its various forms. In this new Chapter, the Policy Requirements section defines the mandate by imposing an obligation on custodians to "conserve the heritage character" of their buildings (Para. 1) and also to "protect the heritage character" of both Classified and Recognized buildings (Paras. 4 & 5). The words "continuous use" do not actually appear in the text of Chapter 9 but that concept, taken in the light of Circular 1987-13, the 1982 Policy, the WHC text and the Venice Charter, cannot be divorced from the concept of conservation which is part of the Policy Objective of Chapter 9, i.e. "to ensure that the custodian departments conserve the heritage character of the federal buildings they administer". In that sense, Chapter 9 "responds to needs". Which is not to say that improvements cannot still be made: for that, see Section 10. below.

8. a. WHAT TRAINING ACTIVITY WAS ENVISIONED AS NECESSARY AT THE BEGINNING OF THE PROGRAMME?

b. HOW SUCCESSFUL DO YOU FEEL THE PRESENT TRAINING PROGRAMME IS ?

c. WHAT AREAS OF IMPROVEMENT DO YOU FORSEE?

a. In the early stages, communicating the Policy to departments was more a process of education through gentle persuasion rather than formal training sessions. It was clear that such training would be required eventually to ensure that as many people as possible, in all parts of the departments, had accurate and consistent knowledge of not only the Policy itself and its principles but also of its implementation systems and procedures which were slowly taking shape. The current training programme began in 1987: it consisted of two-day Workshops for architects, engineers, property managers, administrators and other professionals involved with the management of real property, as well as half-day seminars aimed at Senior Managers and Executives who are the prime decision-makers in most if not all departments.

b. Based on the evaluations and comments from the participants, the Workshops (now extended to 2.5 days) seem to be well accepted and to achieve their objectives. Most participants come with an open mind (it is a totally new subject for most of them) and are

often amazed to find that heritage conservation is not a new "fad" (here today, gone tomorrow) but has been practiced, in one form or another, over the centuries in many countries and that the current concepts flow from the work of the international community.

The half-day Seminars, on the other hand, have been less successful perhaps because less emphasis has been placed on them and because they have not been promoted as aggressively. In addition, the appropriate candidates have been less willing to come to these sessions, perhaps as a result of the lack of adequate "marketing". And yet to effect major changes successfully in any field, the leaders of the target groups must be involved as early as possible in the process of change.

But, overall, considering the difficult conditions in which it is being carried out, the training programme can be termed successful. Consider only that one can now talk about "FHBRO related" issues without being asked: "Fibro? What's Fibro?".

c. No major project can be successful without adequate planning and preparation: a training programme, in whatever field, is no exception. A major improvement to current practice would be the development of an annual training plan prepared by a formal training organization which would first identify the training needs and aims, the methodology, the resources (both human and other) and the facilities required to achieve the training aims. Line departments could then "plug into" the training cycle at known times and intervals. It is a major undertaking, but a necessary one in order to achieve success.

In the interim, some specific and more easily implemented improvements could be made, such as:

- Clear guidelines to the departments on how to select the appropriate candidates who should attend the professional Workshops.
- More specific marketing of the half-day Seminars for line and functional managers, including obtaining a commitment from top management (i.e. DM's) to send their senior staff to these Seminars. Senior managers will be less effective at managing their real property inventory unless they are made aware of what their professional staff is up to in this very special field of activity.
- The development of technical courses, with as much "hands on" work as possible, for technical and operational staff in all regions.

9. a. HOW DOES FHBRO COMPARE WITH THE RAILWAY ACT AS A MANAGEMENT TOOL?

b. WHAT ARE THE STRENGTHS AND WEAKNESSES OF THE TWO APPROACHES?

a. The necessity for an Act of Parliament to protect heritage railway stations arose out of the realization that the Policy on Federal Heritage Buildings did not apply to railway stations. Both the Policy and the new Act (1988) seek to conserve and protect valuable

heritage resources. The Policy is an internal instrument aimed at government departments and agencies. The Act is specific legislation directed at any railway company. The Policy is implemented by the FHBRO. The Act is administered by the HSMB. Each is a "management tool" in the sense that each provides systems and procedures, goals and limitations, permissions and interdictions, which managers must take into account when adjusting their management and planning mechanisms to reach the objectives of either the Policy or the Act. The two different approaches were made necessary by the different nature of each target group (departments vs. companies) but lead to the same objectives: the protection of valuable heritage resources.

b. Like beauty, strengths and weaknesses lie in the eye of the beholder. The consensual approach of the FHBRO would be considered a weakness if it were applied to railway companies: hence the "strong" approach of the Act which is strictly mandatory, brooks relatively few exceptions and carries heavy fines for non-compliance. Yet the consensual approach used by the FHBRO in its dealings with departments (albeit under the mandatory language of both Circular 1987-13 and Chapter 9) can be termed "strong" because the principle of solidarity applies to any decision taken: line departments become part of the solution instead of part of the problem. Non-compliance by a custodian would bring not fines, but "black marks" in the accountability column, unless it had very good reasons to bring forward. In the fullness of time, a non-complying department would have to justify its actions to the Treasury Board if it acted against the firm recommendations of the FHBRO. Even in 1985, before the Circular and Chapter 9, the consensual approach convinced the Mint managers to change their plans well into a major project: in that sense it was a strong enough approach because it achieved results, early in the life of the Policy.

10. WHAT AREAS DO YOU FEEL FHBRO SHOULD FOCUS ON IN THE FUTURE IN ORDER TO IMPROVE?

The areas for improvements can be divided in two groups: those related to policy issues and those arising out of operational concerns discovered as implementation progressed over time.

a. Policy issues: In discussion with custodian departments and the BRPM, the FHBRO should:

- Review Chapter 9 to make the Policy a little tighter (i.e. include the concept of continued use in so many words) and more specific in several areas such as (but not exclusively): building complexes; heritage districts; landscapes; "zoning", i.e. the control of developments which might affect nearby heritage buildings, especially on vacant lands.
- Study available means, including legislation, to make the Policy applicable to Crown Corporations.
- Review the Real Property Manual to eliminate, or at least reduce, the policy conflicts inherent in the current text: Chapters 4 and 6 tend to work at cross-

purposes with 9. In Chapter 1, the Policy Statement states that real property must be managed "in a manner consistent with the principle of sustainable development" all the while respecting "other relevant government policies". Appendix N of the Manual defines sustainable development, in part, as that "which ensures that the use of resources and the environment today does not damage prospects for their use by future generations". Such a statement links back to the aims of the Policy on Federal Heritage Buildings, yet it remains unclear which of Chapters 4, 6 or 9 would take precedence should a department be faced with a direct conflict in a given situation. Similarly, Table 1 to Chapter 1 lists nine "real property accountabilities" on which departments must report to the Treasury Board: again, some of these could be construed as mutually exclusive in a given situation.

b. Operational concerns: the FHBRO should:

- Provide more and better planned training at all levels: see Section 8.c. above.
- Assist departments in developing their own guidelines or internal directives, both managerial and administrative, to ensure a good "fit" between departmental and FHBRO systems and procedures. Some departments have taken the initiative in this area.
- Develop formal Standards to guide departments in their task of reviewing their own interventions to Recognized buildings as well as for the performance of technical restoration work with which they may not be familiar.
- Compile a jurisprudence of past decisions and/or actions taken by either the FHBRO and/or departments during major interventions to heritage buildings. Such "case studies" would be an invaluable aid to departments in planning and executing similar projects and would no doubt prevent the repetition of common mistakes. It would also reduce the work load of those who must respond to "emergency" requests for advice in the middle of a project they have never heard about before.
- Design a monitoring system to evaluate departmental performance and compliance, to determine if the objectives of the Policy on Federal Heritage Buildings are being met satisfactorily, to detect problems, contradictions and/or other difficulties before they get out of hand, and to suggest adjustments as necessary to either the Policy itself or to any system or procedure.
