



P R O V E N A N C E

Celebrating 30 Years of the Victorian Public Records Act

Provenance is the new journal of Public Record Office Victoria. *Provenance* presents research in the field of archives and records management, and provides an arena for scholarly discussion, debate and reflection. Drawing on the wealth of records within the Victorian state archives, the journal aims to promote archival research within Australia.

Provenance is launched as part of the 2003 PROV 30th Anniversary celebrations. The year also marks the centenary of the first transfer of public records into archival custody in Victoria.



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By PROFESSOR EW (BILL) RUSSELL
Original archival research by CHARLIE FARRUGIA

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Public Record Office Victoria
PO Box 2100, North Melbourne, Vic 3051
Australia
website: www.prov.vic.gov.au

Within this edition of *Provenance*, brief citations are included as a matter of house style.
Readers wishing to view any of these records are invited to consult reference staff at the
Melbourne Archives Centre for further information.

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FOREWORD

Welcome to the first edition of *Provenance*, a new journal from Public Record Office Victoria. *Provenance* extends the commitment to access demonstrated in PROV public programs over many years, providing a forum for a professional community whose work and philosophies are shaping the archives of tomorrow.

Provenance will publish research in the field of archives, history and records management. Articles will be sought that promote deeper understanding and analysis of the records within our vast state archives. We also look forward to illuminating the research trail by including administrative histories of specific record series. Over time, *Provenance* will become a reference point for professional practice that documents the shifting context and concerns of archives and the archival and records management professions.

This first issue of *Provenance* is a commemorative one, marking the 30th Anniversary celebrations of PROV's establishment in April 2003. We set the scene with an essay by Professor Bill Russell 'Celebrating Thirty Years of the Victorian Public Records Act: Origins, Scope and Future'. Professor Russell explores the significance of this state's landmark *Public Records Act 1973*, drawing on research by a long-standing PROV Archivist Charlie Farrugia.

Those interested in furthering their understanding of the state archives will look forward to the July 2003 edition of *Provenance* which will feature a companion essay by Professor Russell examining the various motivations behind the long effort to establish the Office. This essay tells the story of how the state's archives were saved from destruction by the effort of a few key people and institutions.

I do hope that you will enjoy this, the first issue of *Provenance*, and encourage you to support, collect and consider contributing to future issues.

ROSS GIBBS
Director and Keeper of Public Records

*C*ONTRIBUTORS

PROFESSOR BILL RUSSELL is a member of the Public Records Advisory Council. He has had a long association with Public Record Office Victoria, having been an archivist 1968–74, a member of the Task Force on Records Management 1978–80, and Director-General of the Department of Property and Services, of which PROV was a Division, 1985–88. Bill obtained his Diploma of Archive Studies from University College, London, in 1973 and was the first Victorian archivist to hold formal qualifications in archives. His doctorate in history at Monash University, completed in 1980, was based on records in PROV.

CHARLIE FARRUGIA is one of the most experienced archivists currently on staff at PROV, having joined in late 1985. He has worked in most areas of the Office and is currently a Team Leader within Agency Services. In his time at PROV, Charlie has worked in sixteen different PROV locations.

Celebrating

30 Years of the Victorian Public Records Act

By PROFESSOR EW (BILL) RUSSELL
Original archival research by CHARLIE FARRUGIA

INTRODUCTION

Today, the Public Record Office Victoria is well established and accepted among its clients in government and the research community. Its eighty kilometres of public records are housed in a state-of-the-art repository in North Melbourne, its advanced digitisation and computer reference systems are of international standard, and professionalism is manifest in its work. Such was not always the case. For many years, archival developments in Victoria lagged behind those in other states, records management in State Government departments was uneven, and historians lamented the difficulties they encountered in using public records.

A critical achievement

Many factors have contributed to this remarkable turnaround over the past generation, but none more so than the proclamation of Victoria's *Public Records Act 1973*. By this measure, on 17 April 1973, Victoria moved to the forefront of Australian archival legislation. Of course, much more work on archival development needed to follow: in systems, training, resourcing, introducing into departments positive records management programs, and ultimately providing a building appropriate for the task.

But if the passage of the Public Records Act was a critical achievement, it was also one towards which progress had long been leading. In celebrating the passage of this Act thirty years ago, it is timely to note some of the epic struggles that preceded it. There had been sixty-three years of representations and lobbying specifically directed towards the creation of a state records office. There had been three major inquiries. As well, there had been 137 years of generally careful and sometimes far-sighted public record creation in Victoria. By 1973, the State Library of Victoria had been acquiring public records for seventy years, employing archivists for twenty-five years, and operating a dedicated Archives Section for eighteen years.

Long-term partners

Even before the passage of the Public Records Act, many efforts were made by partner organisations and individuals committed to the preservation of public records. Over the years, four partners in particular had contributed to the early protection of Victoria's archives. Before 1955, the Public Library of Victoria (now the State Library of Victoria), through its chain of scholarly Chief Librarians, acted decisively time and again to save, survey and protect public records. The Historical Society of Victoria (now the Royal Historical Society of Victoria) campaigned constantly from its foundation in 1909 for the creation of a state record office and for archival legislation, publicly endorsing the new legislation in 1973 while others were attacking it. The History School of the University of Melbourne, under the seminal professorships of Ernest Scott and Max Crawford, frequently supported the preservation of public records and trained and inspired those who would become archivists. And the Victorian Government's Law Department (now the Justice Department) was always closely involved. Indeed this department was the first to transfer its records to the Public Library, and instrumental in securing in Victoria's *Companies Act 1958* a provision that could be seen as the state's first archival legislation. Further, it was the source of critical contributions to the campaign for the Public Records Act, particularly through the efforts of its Secretary, HC Chipman.¹

From 1955, the newly formed Archives Section of the Public Library became the key driver of change. Harry Nunn,² the Senior Archivist there from 1955 until the creation of the Public Record Office in 1973, provided its dynamism. But he was not alone. Throughout this period, he enjoyed the friendship and support of the Hon. RJ (Dick) Hamer,³ who went on to become Premier of Victoria. Other parliamentarians and senior public servants also provided long-term support.

¹ Harold Carter Chipman, Secretary to the Victorian Government's Law Department.

² Harry Wilfred Nunn (b 1917), OA, Fellow of the Records Management Association of Australia BA Hons; Senior Archivist, Public Library of Victoria 1955–65, Chief Archivist, State Library of Victoria, 1965–73; architect and founder of the Victorian *Public Records Act 1973* and Public Record Office; Foundation Keeper of Public Records, Public Record Office Victoria; author or co-author of *A Short History of the Church of England* (1947), *A Pictorial History of Bushrangers* (1966), *Plundering Sons* (1967); *Bushrangers, A Pictorial History* (1979, 1991, 1992), *Select Documents of the Nineteenth Century* (1988), and *A Most Ingenious Hospital: A History of Sandringham and District Memorial Hospital* (1990).

³ Sir Rupert James Hamer (b 1916), KCMG; MLA and MLC 1958–81, holder of many Ministerial portfolios; widely respected Premier of Victoria 1972–81; political progenitor of much innovation in arts, environment and heritage policy, including that involving the Public Record Office Victoria, the Victorian Arts Centre and the first Victorian Ministry of Conservation.



Sir Rupert Hamer, Premier of Victoria 1972–81 and a lifelong supporter of the Victorian archives. It was under his government that the state's *Public Records Act 1973* was enacted.

Photograph by Larry Pitt.

Eight principles of archival management

The Public Records Act encompassed a package of archival reforms based on eight leading principles. These were: (i) the creation of the Public Record Office as a statutory entity separate from the State Library; (ii) the creation of the position of Keeper of Public Records also as a statutory entity and the assignment of key archival powers and functions to the Keeper; (iii) the definition of public records; (iv) the definition of public offices; (v) the recognition of records management in the legislation; (vi) the adoption of principles of access and closure; (vii) provision for the recovery of alienated records; and (viii) provision for the establishment of places of deposit.

By 1973 some of these principles existed elsewhere in Australian and overseas archival centres. However, the conjunction of all eight principles in the Victorian legislation provided the state with Australia's most comprehensive archival legislation at that time. Perhaps more significantly, the legislation provided a coherent package that could be practically administered over several decades. It enabled Victorian public archives to be developed from a haphazard basis to a functional norm, so delivering real benefits to stakeholders of the Public Record Office. Government departments and local governments began to receive conceptual and practical leadership in records management from the Office, and historians working on major research projects began to use Victorian archives rather than searching elsewhere. Increasingly, too, Office staff found themselves working in a professional structure with appropriate physical conditions. Archival management through series control and computer search tools replaced sole reliance on archivists' memories. Clean conditions, air-conditioning and order replaced dust, fluctuating humidity and chaos. As well, ergonomic work practices replaced unsafe physical labour.

To better appreciate the significance of the Public Records Act whose passage is now being celebrated, it is useful to consider the struggles that led to its achievement, and the context and implications of the eight principles around which the Act is constructed. Such considerations therefore form the basis of our following discussion.

The struggle to pass the Public Records Act

Collection-building by the Public Library

In the late nineteenth century, well before the idea of a Public Record Office or archival legislation had been proposed, the Public Library of Victoria began to acquire a small number of historical documents about early Victoria. Among these were a set of accounts that Lieutenant-Governor Charles La Trobe had secured from the pioneers in 1853. La Trobe had subsequently passed these on to the Hon. James Graham, MLC, in 1872, commenting:

I have collected a number of documents, addressed to me in 1852 by old colonists, to whom I applied for information respecting the early occupation and settlement of our colony. I intended to have made a certain use of it myself, but from circumstances, have been prevented from doing so. The day may come however, when it may be considered of too great interest to be lost, and I therefore propose that the parcel should be deposited somewhere where it will be accessible when that day comes, say the Public Library or other public archives.⁴

La Trobe, far-sighted in this as in so many other areas, became one of the first to envision a public archives for Victoria, as well as to take some positive steps to record the first-hand history recalled by surviving pioneers.

Slowly, a small collection of other documents began to accumulate. The Public Library, in its own publications, usually referred to the records of the Melbourne Branch of the Derwent Bank, acquired in 1883, as the inaugural item of its 'Archives and Manuscripts' collection. Ten years later, it seems that there were nine documents in this collection. This is known because, in 1893, a descendant of Captain Foster Fyans asked the Library to identify its holdings of historical

⁴ La Trobe to Graham, 19 March 1872, in Bride, TF (ed.) 1898, *Letters from Victorian Pioneers*, p. 1.

documents. Librarian Dr Francis Bride replied that in the previous thirteen years, only nine such documents had been acquired, comprising: some letters of John Pascoe Fawkner; the journal of the 1837 expedition in search of a white woman among blacks in Gippsland; Batman's journal; the diary of Mollison's journey to Port Phillip in 1837; the two Batman deeds; some gold licences and miner's rights; the field book of surveyor John Helder Wedge; and the original plan of the first land sale in Melbourne in 1837.

Ten years later again, in July 1903, Chief Librarian Edmund La Touche Armstrong⁵ himself made history when he received from Mathew Byrne, the Secretary of the Law Department, the first transfer of official records from a department to the Library. These consisted of some volumes of Convict Indents. Armstrong made notes as to their administrative significance, and his handwritten comments still exist today, bound into one of the volumes. Armstrong did not want to build an archives in the Library, according to his distinguished successor Ernest Pitt, but favoured instead 'the establishment of a Public Record Office on the lines of the one in London as a separate government department rather than the institution of an archives branch in the library.'⁶ Nonetheless, Armstrong was interested in old records and he visited the Geelong Police Station and Court House looking for them. Since his father had been a Crown Prosecutor in Geelong, and he himself had been born there and had trained as a lawyer, his personal contacts would have served him well. Armstrong later made similar inquiries regarding old records of the Clerk of Courts at Sale.

⁵ Edmund La Touche Armstrong (1864–1946), who in many ways established the character of the Public Library and was responsible for its domed reading room and the introduction of Dewey classification, was its fifth Chief Librarian, serving for twenty-nine years from 1896 to 1925.

⁶ Pitt c. 1930, ms notes 'Archives in Library', Papers separated from Chief Secretary's Office file 1943/A1706, VPRS 5716/P1.



Edmund La Touche Armstrong, who as Chief Librarian received and annotated the first public records transferred to the Public Library of Victoria in July 1903. He was also an early supporter of a separate Public Record Office.

La Trobe Picture Collection, State Library of Victoria.

Campaigning by the Historical Society of Victoria

Notwithstanding these earlier disparate steps, the Historical Society of Victoria, formed in 1909, was the first entity to assess Victoria's official records systematically. It was also the first to articulate the goals of archival legislation and a State Records Office in which to house the records. After Professor Ernest Scott raised these matters in April 1910, campaigning began. There was a resolution, a sub-committee was established to study 'documentary material preserved in the Government Offices of Victoria', and a deputation from the Society met with the Premier, Mr Murray, on 17 August. Led by the Secretary of the Society, Alfred W Greig,⁷ the deputation drew attention to concerns about the destruction of public records and advocated the creation of a record office and a custodian for it.⁸ In consequence, the committee was allowed to inspect the vaults in which the records of the Chief Secretary's Office were stored and 'to inspect the letter books of La Trobe, while he was Superintendent of the Port Phillip district'.⁹

In May 1912, in the second issue of the *Victorian Historical Magazine*, the sub-committee provided its report. Following quotes from interviews with senior officials regarding 'wanton destruction of records', and in a foreshadowing of modern terminology, a description of history as 'corporate memory',¹⁰ came the first of a number of surveys of public records that appeared from time to time.¹¹ This particular survey, over several pages, provides useful information on a number of the record groups that later formed the core of the nineteenth-century holdings of the Victorian archives. These were namely those of the Chief Secretary's Department, the Lands Department, the Education Department (including Denominational and National Schools Boards), and the Customs Department. The article concludes with the first published case for a records office: 'What is really wanted is a central records office, to which all official papers should be sent when no longer required for departmental purposes.'¹²

⁷ Alfred Woolley Greig (1877–1944), founder of the Historical Society of Victoria in 1909 and later Secretary, President and Council Member of the Society, Registrar of the University of Melbourne 1937–39, and co-author of *Victoria: A Centenary History* (1934) and other works.

⁸ Chief Secretary's Office, inwards correspondence, 1910/G6874, VPRS 3992/P0.

⁹ Professor Ernest Scott to the Under-Secretary, Callaway, 16 April 1912, Chief Secretary's Office, inwards correspondence, 12/L3823, VPRS 3992/P0.

¹⁰ *Victorian Historical Magazine*, May 1912, p. 27.

¹¹ Later surveys were made by HO Allan in 1917, ER Pitt in 1928, and Patricia Ingham in 1954.

¹² *Victorian Historical Magazine*, May 1912, p. 31.



Alfred Greig, who founded the Historical Society of Victoria in 1909. From 1910 he also drove representations to the State Government calling for records to be preserved and a Records Office to be established.

Private Collection. Courtesy of Brian McCallum.

Although war broke out in 1914, before their campaign achieved any positive outcome, the Historical Society of Victoria kept up the pressure. On 13 February 1915, Alfred Greig wrote to Henry Gyles Turner,¹³ Chairman of the Library Trustees, requesting that a deputation, consisting of Professor Harrison Moore,¹⁴ Professor Ernest Scott¹⁵ and himself, might visit Turner at his private residence to discuss ‘the proposals we have formulated concerning the establishment of a records office in the Public Library buildings’. Greig acknowledged that ‘we are well aware it would be useless to expect the Government to take any positive steps in the matter under present conditions, but we are anxious to get into touch with the Trustees’.¹⁶ The following year, the same team, with the addition of MM Phillips of the Australian Natives Association, waited upon the Trustees as a group. Their aim was:

to apprise the Trustees of the Society’s intention of asking the Government, when a suitable opportunity arises, to establish a Record Office, where early official records may be made available for examination by students, and to ascertain the possibility of space being reserved for this purpose in the Public Library buildings, and the conditions under which the Trustees would undertake the supervision of such a department.¹⁷

In 1918, a further deputation from the Historical Society of Victoria sought to meet Edmund Armstrong to discuss the Society’s wish to secure the removal to the Public Library of the early letter books and correspondence files of Charles La Trobe, William Lonsdale and Robert Hoddle. Greig indicated that the Society felt these records should be transferred ‘even if nothing more than storage accommodation is provided for them at the Library’, and that by their transfer ‘an important step towards the formation of a State Record Office will have been taken’.¹⁸

¹³ Henry Gyles Turner’s authoritative two-volume *History of the Colony of Victoria* had been published in 1904. Turner spent most of his life as a banker in Victoria, but in the late 1840s had been apprenticed in London to the eminent bookseller and publisher William Pickering of the Aldine Press. Mennell, P 1892, *Dictionary of Australasian Biography*, pp. 474–5.

¹⁴ Sir W Harrison Moore (1867–1935), Professor of Law, University of Melbourne. The second Chair in Law at the University is a Chair of Public Law named in Moore’s honour.

¹⁵ Sir Ernest Scott (1868–1939), Professor of History, University of Melbourne. The second Chair in History at the University of Melbourne is named in Scott’s honour.

¹⁶ Public Library of Victoria, inwards correspondence, 14/219.

¹⁷ *ibid.*, 15/676.

¹⁸ *ibid.*, 18/1308.

Later that year, Sir Frank Madden¹⁹ approached the Premier to ascertain whether the ‘vacant land adjoining Parliament House’, which had been in a state of neglect for some years, might be reserved for a Records Office.²⁰ In a follow-up letter on 30 May 1919, Henry Gyles Turner, President of the Library Trustees, requested of the Premier, Harry Lawson, that space be allocated for a records office. Turner told the Premier:

[The Trustees] have recently been urged to establish a Records Office in connection with the institution, and would be glad to do so except for the question of room. They suggest that the triangular piece of land belonging to Parliament House at the corner of Evelyn and Albert Sts be reserved as a site for a Records Office.

However, there were other contenders for the site: Melbourne High School, Melbourne City Council, and the Repatriation Committee. After the matter was referred to the Buildings Committee of Parliament, the official response, dated 25 November 1919, declined the Library’s request. The Records Office would have to wait.²¹

No time was lost in taking the next step: the Historical Society of Victoria itself sought to meet the Chief Secretary on the same issue. A letter, signed jointly by Alfred Greig as Secretary and Ernest Scott as Chairman of Council, noted that although the time might not be opportune for creating a new department to undertake the cataloguing and classification of records, the correspondence of La Trobe and Lonsdale and the Duplicate Despatches²² ‘should be placed in a special room in some public building, to form the nucleus of a State Records Office’. As well, the letter contended, ‘these records should be made accessible to the growing number of students who, at the University and elsewhere, are devoting special attention to the history of their native land’.²³

¹⁹ Sir Frank Madden (1847–1921), MLA 1894–1917, Speaker of the Legislative Assembly 1904–17, and Foundation President of the Historical Society of Victoria.

²⁰ Armstrong, ELT & Boys, RD *The Book of the Public Library 1906–32*, p. 40.

²¹ Premier’s inwards correspondence, P27/3834, VPRS 1163/P0.

²² The Duplicate Despatches (1851–60), between the Secretary of State for Colonies and the Lieutenant-Governor of Victoria, had been transferred between 1909 and 1912.

²³ Chief Secretary’s Office, inwards correspondence, file 19/A5779, VPRS 3992/P0.

Discussions between the Society and the government on these matters were protracted, extending until 1922. In that year, on 18 September, the first version of a circular was sent out requiring government departments to consult the Library Trustees before destroying official records. Later re-issued four times (1928, 1937, 1944 and 1949), this circular subsequently appeared with the instruction that it should be pasted up in the vaults in which records were stored. For this reason, vaults such as those in the Treasury Reserve each for many years had a copy of this notice affixed inside their door.

In some states, a legislative provision of this kind marked the effective beginning of what is sometimes termed ‘first generation’ archival legislation—that is, legislation providing for some protection of records and some basis for their transfer to the state’s central library. In Victoria, however, the requirement was issued only as a Premier’s Instruction, without legislative backing.

Following the 1928 instruction, and an inspection by Librarian Ernest Pitt²⁴ of records in government departments in the same year, a number of offers were made to transfer records to the Library. As a result, the Library began to articulate its role in collecting records for historical research, and to identify the need to employ an archivist.

A most important outcome of the 1928 survey was the acquisition of the Shipping Passenger Lists, concerning which the Chief Librarian, RD Boys,²⁵ wrote to the Engineer-in-Chief of Ports and Harbours on 29 February 1928 as follows:

I beg to suggest that these records, which relate to Victoria only, should remain in the custody of some State institution. The Public Library of Victoria is endeavoring to form, for the use of students engaged in historical research, a collection of State documents, and the Trustees would esteem it a favour if you would transfer these interesting records to the Public Library. They will of course undertake to have them properly housed and arranged, and to make them available for departmental and private enquiries.²⁶

²⁴ Ernest Roland Pitt (1877–1957), Chief Librarian 1931–43 and later co-author of the Munn–Pitt Report on Australian Libraries (1935).

²⁵ Robert Douglass Boys, Chief Librarian 1925–31 and author of *First Years at Port Phillip* (1935).

²⁶ Chief Librarian to Engineer in Charge, Ports and Harbours Department, loose letter 29/2/1928, VPRS 5716/P1.



Ernest Pitt, who surveyed departmental records in 1928 and chaired a Board of Inquiry that recommended archival legislation in 1944.

La Trobe Picture Collection, State Library of Victoria.

These records were indeed transferred in March 1928 and subsequently located in the 'Shipping Room' at the Public Library. Other transfers that followed included: further Convict Indents 1831–42 from the Law Department, in May 1928; a consignment of Education Department records, in June 1929; bundles of surveyor's records from the Lands Department, in October 1930; additional correspondence from the Lands Department, in May 1931; and Penal Department records from Pentridge, in September 1933.

The Pitt Inquiry 1942–44

World War II brought new threats to the survival of Victoria's archives, which led to the first recommendation by an official inquiry for archival legislation to be passed. In 1940, George Brown²⁷ was appointed State Controller of Salvage. In a circular, Brown suggested the appointment of a committee to look at reducing the forms in use, and recycling scrap paper. He further stated:

In most Departments there are large stocks of hoarded papers as well as bound volumes of ancient records. Subject to the usual preliminary scrutiny by officials from the Melbourne Public Library in the case of old documents, it should be possible to make a very substantial clearance in this direction ... I have confirmed with Austral Waste Products (associated with Australian Paper Manufacturers Ltd) and this Company is prepared to purchase, on the basis of 30/- per ton, all paper coming forward in this manner.²⁸

A meeting of departmental heads was held on 12 August 1940 to consider a wide range of suggestions, and the Premier's Department file includes a copy annotated with those accepted and those rejected. Under the heading 'Waste Products', sub-heading 3 'Obsolete Files', there is ticked 'Obsolete files, ledgers, account books etc now stored in vaults to be overhauled and made use of, or sold as waste (old papers and letter books sent to the public library)'. These economies were referred to the Premier and considered and adopted by Cabinet on 26 August 1940.²⁹ The final version, however, omitted the reference to the Public Library, leaving a path clear for indiscriminate destruction of records.

²⁷ Brown was Secretary of the Department of Mines.

²⁸ Premier's inwards correspondence, P40/1655 VPRS 1163/P0.

²⁹ *ibid.*

Austral Waste Products lost no time in acting, but their activity did not go unnoticed. The following month, Gwyn James, then a lecturer in the History Department at the University of Melbourne, discovered that some records from small court houses in the Maryborough area—including Maryborough, Dunolly, Bealiba and Avoca—had been taken by Austral Waste Products.³⁰ Professor Max Crawford,³¹ acting on this advice, wrote immediately on 11 September to Chief Librarian, Ernest Pitt, who quickly arranged a meeting on 17 September in the Board Room of the Public Library. Present were the Hon. WH Edgar, MLC; Professor Crawford and Mr James from the University of Melbourne; and three representatives of the Library. At the meeting, a historic resolution was passed:

That this meeting ask the Premier to take steps to prevent any further destruction of official documents; that local government bodies be asked to preserve their records.³²

The day after the meeting, Pitt wrote to the Secretary of the Law Department asking that the records be held for inspection before pulping, in accordance with the 1937 instructions of the Premier. The Secretary acceded to this request.

Later that month, a significant step towards the eventual provision of archival legislation was taken. On 30 October 1940, the State Government appointed a Board of Inquiry to examine free library services available to the people of Victoria. This Board consisted of five members: Ernest Pitt, as Chairman, Colin Badger,³³ William Baud,³⁴ KS Cunningham³⁵ and Alfred McMicken.³⁶ Twelve years earlier, Pitt had undertaken a review of departmental records, assisted by Baud, so both these members had substantial and long-standing knowledge of archives. While the Board's inquiry focused mainly on public and municipal library services, it did pay some attention to archives.

³⁰ James was actively researching in Maryborough at this time. His version of the journal of Maryborough pioneer Alfred Joyce, *A Homestead History*, first appeared in 1942. In 1975 James returned to the archives as Deputy Keeper of Public Records.

³¹ RM (Max) Crawford, Professor of History, University of Melbourne, 1937–70.

³² Papers from Public Library Victoria file in VPRS 5716/P1.

³³ Colin Badger was later Director of the Council of Adult Education, Victoria.

³⁴ William C Baud, Chief Librarian 1944–45.

³⁵ Dr Kenneth Cunningham, a Public Library Trustee and Director of the Council for Educational Research 1930–54.

³⁶ Alfred Ernest McMicken, a Public Library Trustee and Municipal Librarian for the City of Prahran.

Meanwhile, limited advocacy of the creation of an archives capacity continued. On 22 July 1941, the Hon. WH Edgar, MLC, posed a two-part question in Parliament. First, he asked whether the government would consider the appointment of a full-time Archives Officer. The reply was that the government would not, at present, on account of 'essential expenditure in connection with the war effort of the state taking precedence'. The second part of Edgar's question asked whether the government considered the present method of dealing with such documents and records to be adequate. The draft answer was 'NO', but this was deleted and a pencilled alternative substituted: 'Undoubtedly some improvement in the present method could be effected.'³⁷ Edgar continued to lobby on archival matters. In 1941, he wrote to the Chief Secretary advocating the appointment of an Archivist.³⁸

On 17 September 1942, the Library Association of Australia wrote to the Premier urging that a position of Archivist be created at the Public Library of Victoria. This followed a resolution unanimously adopted at its Annual Meeting. The Association called attention to 'the successful archivist's department being carried on in South Australia' and indicated its feeling that 'the importance of this state warrants a like venture'.

The Pitt Board of Inquiry into Library Services finally reported in 1944. In a short section of the report, the Board discussed the need for an Archives Department. It found that 'the Public Library of Victoria has been for many years the repository of official documents from state departments' and noted that instructions had been issued forbidding the destruction of records without notifying the Library Trustees. However, the Board observed that in other states, similar requirements were backed by legislation. It was the Board's view that the Archives Department should probably come under the control of the Library, whose own Board should prepare legislation to ensure the collection and preservation of these documents. In an Appendix, the Pitt Board of Inquiry recommended the appointment of three Archivists to staff the function.

Meanwhile, in May 1944, the Parliamentary Library Committee wrote to the Premier about what it saw as 'the need for better provision being made for the custody and preservation of archives in Victoria'. This led to a meeting between the Hon. GH Knox,³⁹ MLC, and Premier Albert Dunstan, on 29 June. The same day, the Premier publicly announced that his government was

³⁷ Premier's inwards correspondence, P41/1387 VPRS 1163/P0.

³⁸ *Public Library Annual Report 1941*, p. 23.

³⁹ Later Sir George Knox, CMG.



The Hon. WH Edgar, MLC, a parliamentary advocate for archives who energetically argued in 1941 for the appointment of an Archivist.

Reproduced with permission of the Library Committee of the Parliament of Victoria.

considering a plan for the preservation of the historical records of the state. This in turn led to representations from the Society of Australian Genealogists in Sydney and the Historical Society of Victoria. While the Genealogists merely applauded the existence of a plan, the Historical Society submitted its own rather complex proposals. In a letter dated 4 November 1944, it proposed first that there be archival provisions in an amended Libraries Act, requiring libraries, community groups or historical societies to register with the Archivist. It then further proposed that all Departments, Boards, Trusts, Commissions, Municipalities and Public Authorities be required to report on whether they had any historical records and to report again every quarter 'if new records or data have come into their possession'. As envisaged by this latter proposal, a person could 'register with the archivist or with any society registered by him, any item of historical records or data ... and stating in whose possession it rests'.⁴⁰ While the Historical Society of Victoria's letter was acknowledged, it was largely ignored—even its mainstream proposal to include archives provision in the Libraries Act amendments of that year found little resonance.

Indeed the Libraries Act amendments in their final form, titled the Public Library, National Gallery and Museums Bill, made no reference to archives. Only in one of the Bill's four drafts (not the Cabinet version) was mention made of the archival powers recommended by the Pitt Inquiry. This silence on archival provision came despite support for its explicit inclusion from the Chief Librarian and the Under-Secretary of the Chief Secretary's Department, LL Chapman. These two had advised the Parliamentary Draftsman, RC Normand, on 24 November 1944, that archival provision should extend to 'any office of a public authority', and possibly a definition of 'public authority to include all Government departments, boards or commissions or other authorities appointed by the Governor in Council, and all municipal councils'.⁴¹ Later, the scope of the authority of the archival body would emerge as an issue to be revisited, but in the meantime, the Parliamentary Draftsman opposed the inclusion of archival powers in the Libraries Act. According to Normand, 'the trustees of the Public Library do not need a special power to acquire documents of historical value from public departments and other public authorities, any more than they need a special power to purchase books'.⁴² In the departmental interplay at this time, Normand's view

⁴⁰ HS McComb, President of the Historical Society of Victoria, to Premier AA Dunstan, 4/11/44 (top page mistakenly dated 4/10/44), Premier's inwards correspondence, P44/2482 VPRS 1163/P0.

⁴¹ Under-Secretary to JC Normand, Parliamentary Draftsman, 24/11/44; Parliamentary Draftsman's inwards correspondence, Libraries Act 1933–50, VPRS 10265/P0.

⁴² Normand to Chapman, 17/11/44, *ibid.*

prevailed, and when the final draft went to Cabinet early in December 1944, the notion of archival provision had been dropped. Thus Victoria's *Public Library, National Gallery and Museums Act 1944* was nearly, but not quite, the occasion of the state's first archival legislation.

Victoria's Centenary and Schellenberg's visit

Several important developments were clustered together in the period between 1948 and 1951. These included: the appointment of the first Archivist by the Public Library; the publication by the History School of the University of Melbourne of a new guide to Victoria's official records; the genesis of the La Trobe Library during the Victorian Centenary celebrations; a study tour by Chief Librarian Colin McCallum, in which he reported on international archival developments; and a Commonwealth Conference on archives. The issue of archival policy was becoming more urgent, although there was as yet no unity of view as to the direction such policy should take in Victoria.

Action on the archival staffing recommended by the Pitt Inquiry in 1944 was finally taken in 1948. On 19 July that year, the Public Library of Victoria advised that it had added to its staff an Archivist, DWA Baker. Baker remained in office for six months only, finding the task overwhelming and preferring an academic career. He resigned on 1 January 1949 to take up duties at Canberra University College.⁴³ However, the vacated position was soon filled by Rosemary McGowan, followed later by Patricia Ingham. These capable Archivists continued, by gradual stages, to arrange and describe records, provide public reference services, and build the profile of the archives in the Library.

This profile was also enhanced by the publication in 1949 of *Victorian Historical Documents*, by the History Department of the University of Melbourne. In his introduction to this work, Professor Max Crawford lamented:

All workers in Australian history spend an inordinate amount of time tracking down documents which lie scattered and unknown in private houses or businesses or in public departments and in libraries, many of which still lack the staff necessary for their classification and cataloguing. This difficulty is particularly acute in Victoria which has as yet no properly developed archives.⁴⁴

⁴³ He later became a close associate of Professor CMH (Manning) Clark, who dedicated the third volume of his *History of Australia* to Baker.

⁴⁴ History Department, University of Melbourne 1949, *Victorian Historical Documents*, p. 1, VPRS 5716/P1.



Donald Baker, the first Archivist of the Public Library of Victoria, appointed in 1948.

Reproduced from *The Age*, Literary Supplement, 12 February 1949, p. 6.



Colin McCallum, Chief Librarian, and following an overseas study tour in 1949, an advocate of the archival legislation under which the Archives Section was established in 1955.

La Trobe Picture Collection, State Library of Victoria.

In the latter half of 1949, the Chief Librarian, Colin McCallum,⁴⁵ undertook a six-month study tour of overseas libraries. Although primarily focused on library matters, McCallum also visited the Public Record Office in London, as well as some county record offices. Importantly, his resulting report marks the first recognition in Victoria of the potential record and administrative value of archives:

From experience overseas, it now becomes evident that an Archival Authority has wider fields to consider than the purely historical, and to this added value must be added the record value (as evidence at law) and the administrative (for administrative, legislative and executive purposes). This is the interpretation placed upon their obligations by the Public Record Office in London and the National Archives in Washington.⁴⁶

During McCallum's absence, a conference of Commonwealth and state archival authorities was held in Canberra over 20–21 June 1949. Victoria was represented by JA Feely, Acting Chief Librarian, and Rosemary McGowan, who had succeeded Baker as Archivist only two days earlier. The first session of the conference was addressed by Dr CEW Bean⁴⁷ and ranged over various issues including archival legislation. It led to the establishment of a Working Party, consisting of the state and Commonwealth Archivists under the chairmanship of Bean. A further significant resolution of the conference was that the Commonwealth Government seek as a Fulbright visitor an eminent US authority in archives administration. This led five years later to the seminal visit of Dr TR Schellenberg.⁴⁸

In 1950, another important initiative occurred that would impact on archival provision. With the approach of Victoria's Centenary, marking the separation of that state from New South Wales, a Celebrations Committee was appointed to manage a suitable program of events. Professor Max Crawford suggested that to provide a lasting memorial, an appropriate library should be created 'to house the great collection of Australiana now scattered through the Public Library of Victoria'.

⁴⁵ Colin Alexander McCallum, Chief Librarian 1945–60 and the last for some years to have had grass-roots archival experience and a commitment to modern archival developments.

⁴⁶ Report by Chief Librarian, CA McCallum, on a Visit to Great Britain, Denmark and the United States of America, May–December 1949, Public Library of Victoria and The Library Services Board, p. 21.

⁴⁷ Charles Edwin Woodrow Bean (1878–1968), official historian of World War I, and from 1942, Chair of the Commonwealth War Archives Committee.

⁴⁸ Report of Conference on Commonwealth and State Archives, Parliament House Canberra, 20th–21st June 1949, VPRS 5716.

His vision for the future La Trobe Library was to bring together into one building ‘a host of historical papers and files from 1836 onwards, together with 30,000 volumes of Australiana—books written by Australians and about Australia’,⁴⁹ One direction in archival policy that this suggested was the development of an archival official documents section of the La Trobe Library.

Of all these developments, however, none was more significant than the visit of Dr Theodore R Schellenberg.⁵⁰ Over 4–13 May 1954, Schellenberg, Director of Archival Management from the United States National Archives, delivered in Melbourne lectures on archives, records management, arrangement and description, and reference services. His lectures, held in the Library’s theatre and generally commencing at 2.30 pm, had a lasting impact—not only on archival thinking and on the Public Library’s approach to these issues, but also on government departments. For example, the Law Department’s representative took notes (which still survive) of Schellenberg’s remarks, which were clearly followed up: from then on, that department exerted a very positive influence on archival policy, best exemplified by its Secretary HC Chipman’s role on the Public Records Advisory Committee.

Back at the Library, archival pressures continued to mount. Immediately after Schellenberg’s visit, McCallum sent a memorandum to the Under-Secretary, dated 1 June 1954, painting a grim picture of the state of the records and the need for more space. The issue of the dispersal of archives around the Library building was raised again also. McCallum reported as follows the location of records dispersed around three basements:

95% of these documents are unprocessed, in grave danger of deteriorating and unfit to be used by any student...in the Public Library basement are six tons of [Police Department] records deposited here some years ago and still in the disorderly heap in which they arrived. There is no place to put them and no place to work on them.

⁴⁹ ‘The La Trobe Library’ Briefing Notes for the Premier for foundation stone laying ceremony 2/7/51, Public Library inwards correspondence 1951, VPRS 802/P0.

⁵⁰ Theodore R Schellenberg (1903–70), of the United States National Archives, eminent twentieth-century archival theorist and author of *Modern Archives: Principles and Techniques* (1956). Still in print, this classic textbook of records management-oriented archives is based on Schellenberg’s Australian visit and dedicated to ‘the Australian Archivists’. Among Schellenberg’s other books is *The Management of Archives*.



Dr TR Schellenberg of the United States National Archives, whose 1954 visit profoundly influenced archival development in Victoria and raised the status of records management in the state.

Reproduced from *American Archivist*, vol. 33, no. 2, April 1970, p. 193.

On 19 August 1954, the Trustees of the Public Library issued a report setting out a scheme for archives, forwarding it to the Premier, John Cain Snr, by the Chief Secretary, LW Galvin, on 6 September. The Chief Secretary, in his covering memorandum to the Premier, endorsed the recommendations of the Trustees. He stated that 'the proposal follows the practice that has been adopted in every other civilized community and its value is such that I do not need to stress it further'.⁵¹

The Trustees' report contained 'recommendations concerning the collection and care of the State's archives', formulated with 'the full approval of the Public Library Trustees, as the result of discussions with Dr TR Schellenberg, Fulbright lecturer on archives and records management, and in the light of the considered findings of the seminars recently held in Canberra'. These recommendations were:

- 1 The Archives to remain under the control of the Public Library of Victoria for the time being, but to be expanded in accommodation and staffing so that it will gradually become a major division of the Institution.
- 2 The question of Archives legislation to be deferred for at least a year, to enable practicing archivists to reach a decision as to the kind of Act required for Australian conditions ...
- 3 The immediate objectives of archival work in Victoria to be:
 - i to concentrate activity and propaganda on the preservation of records
 - ii to bring the archives already in the custody of the Public Library under physical control and to make their contents available by means of inventories.
- 4 To achieve these objectives, the following steps are recommended:
 - i A survey of records held by Government Departments ...
 - ii The reissue of instructions to Government Departments forbidding the unauthorized destruction of records ...
 - iii A recognized authority for the destruction of records to be provided ...
 - iv The immediate appointment of three additional graduates in history to the Archives staff.
 - v The purchase of a special building for Archives ... This building should provide accommodation for the expected transfers of at least the next 25 years.
 - vi Participation in the two-year project for the publication of a Guide to the Public Archives of Australia of the pre-Federation period ...

⁵¹ Premier's inwards correspondence, P54/4199, VPRS 1163/P0.

After years of gradual development, archival legislation now had the clear imprimatur of the key players: the most senior and expert overseas authority on archives to have visited Australia; the Chief Librarian of the Public Library; and the Chief Secretary.

Creation of the Archives Section and proposed legislation of 1961

Schellenberg's visit and McCallum's report set the scene for the most significant administrative development to date, namely the creation of an Archives Section of the Public Library. Headed by a Senior Archivist and including the three additional Archivist positions recommended by the McCallum Report, the Section gave a significant increase to status and resourcing; a senior leadership position and clear recognition of the role of professional archivist; and explicit recognition of the role of a modern archives in records management. The new position of Senior Archivist was filled in 1955 with the appointment of Harry Nunn, who energetically pursued a comprehensive archival agenda. According to Nunn,⁵² his application for the position had been encouraged and supported by Ian Maclean, Chief Commonwealth Archivist, and historian Dr Geoffrey Blainey.⁵³ As the three men sat in the public bar of the Menzies Hotel in Bourke Street, Melbourne, 'with their feet on the brass bar rail', Nunn told them he would give it two years to secure in Victoria archival legislation that Maclean hoped would lead to similar action at Commonwealth level. Ultimately, Nunn's objective would take seventeen years to achieve.

Harry Nunn set out his scheme for a Victorian Public Records Act on 23 March 1961. In a memorandum to the Under-Secretary, the Senior Archivist suggested that:

consideration be given to the development of a central archives establishment which would provide adequate facilities ... and that legislation should be enacted along the lines of the 1958 Public Records Act of Great Britain with suitable adaptations to suit Victorian conditions.⁵⁴

The document included a two-page attachment setting out the objectives and the machinery proposed. The Chief Secretary's office note on Nunn's memorandum states that:

⁵² Interview with the author, 19 February 2003, Sandringham.

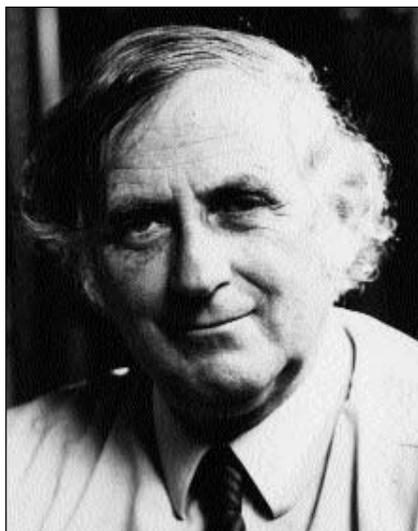
⁵³ Professor Geoffrey Norman Blainey (b 1930), AO, AC. Among other positions and distinctions, the eminent historian was a Foundation Member of the Public Records Advisory Council 1973–75.

⁵⁴ Chief Secretary's inwards correspondence 6541, VPRS 4723/P1.



Ian Maclean, former Chief Commonwealth Archivist, was another who sought to persuade Harry Nunn to become Chief Archivist. His hope was that success in obtaining archival legislation at state level in Victoria might speed the process at Commonwealth level. After the Public Record Office had been established, he spent a short period as Deputy Keeper.

Private Collection. Reproduced with permission of the Maclean family.



Professor Geoffrey Blainey, who helped persuade Harry Nunn to apply for the position of Senior Archivist in 1955. He also strongly advocated the separation of archives from the State Library before the Jungwirth Committee in 1965, and was a foundation member of the Public Records Advisory Council 1973–75.

Private Collection. Courtesy of Geoffrey Blainey.

The Archivist is of the opinion that a separate archives department ‘will not involve a big increase in expenditure’. While this may be so in the long run, the initial costs would appear to be very substantial and in view of the present financial position of the state perhaps little can be done for some years to come ... however in the meantime perhaps the suggestion could be developed by the Archivist.⁵⁵

The Jungwirth Inquiry

On 5 February 1963, Sir John Jungwirth⁵⁶ was appointed to head a Board of Inquiry to investigate and report on a number of issues concerning the State Library of Victoria. While the terms of reference dealt mainly with the State Library in relation to public and university libraries, term 2 (b) asked:

2. With reference to the State Library—

(b) Should the Archives Section be removed from State Library control?⁵⁷

On this issue, a vigorous debate took place before the Board, setting the context for the eventual separation of the archives from the Library in 1973. Before this could occur, an intensive discussion among stakeholders needed to take place, and more than any other forum, the Jungwirth Board of Inquiry served as the venue for this.

The Board finally reported in 1964, recommending the creation of a Victorian Library Authority. The proposed Authority would have three divisions: a State Library Division, a Public Records Division, and an Extension and Circulation Division. The Board recommended that the head of the existing Archives Section should be called the ‘Keeper of Public Records’ and report directly to the State Librarian. Major decisions concerning public records, it further recommended, should not be taken by the Library Authority but be contained in legislation governing public records and in departmental instructions regarding access to records. A public records Advisory Committee could be established also, comprising the Chairman of the Public Service Board, the Secretary to the Premier’s Department and a representative of a university history school. In the Board’s vision, the Public Records Division should carry out the functions of storing, preserving and

⁵⁵ Chief Secretary’s inwards correspondence 6541, VPRS 4723/P1.

⁵⁶ Sir John Jungwirth, formerly head of the Victorian Premier’s Department.

⁵⁷ Chief Secretary’s Office, inwards correspondence 1545, VPRS 4723/P0.

organising for use records created by the State Government and its agencies and by semi-governmental authorities. It should also prepare disposal schedules, lend records to originating agencies and provide facilities for research workers to use records. Legislation, according to the Board's recommendation, should be enacted to delineate responsibilities with regard to public records, using for guidance the United Kingdom's *Public Records Act 1958* or New Zealand's *Archives Act 1957*. Eventually, the Board considered, a separate public records authority might be justified. Other recommendations concerned the provision of a new staff establishment for the archives, provision of a storage repository on low-cost suburban land, and the use of paper with a life of 300 years for records destined for preservation.⁵⁸

In the immediate policy process that followed the Jungwirth Inquiry, none of its recommendations survived. On 4 December 1964, the Public Library Trustees adopted a statement opposing the Board's proposed Victorian Library Authority, the incorporation of the Free Library Service Board into the Authority's work, and the recommendations on archives. The President of the Trustees, Sir Irving Benson, advised that 'we can see no real difference between the position of Archives under the proposed authority and the present position of archives under the Trustees'. Benson reported that the Trustees, with the exception of Sir George Paton,⁵⁹ were convinced that 'no Archive Section could give full value to research workers unless it had an Australian library to support it'. Similarly, again with the exception of Sir George Paton, they saw

no reason why the Archives should be divorced from the State Library unless it is intended that the Archive Section should build up an Australian collection on its own account. The majority believe that this would not be possible except at great expense and that it would not be an economic proposition even to do so.⁶⁰

Within the Chief Secretary's Department, the internal assessment of the report provided to the Under-Secretary, on 12 March 1965, was based on a comparison of the Jungwirth recommendations and Benson's memorandum of 7 December 1964. The Assistant Under-Secretary WK Nevin advised Under-Secretary John V Dillon⁶¹ that:

⁵⁸ Report of the Board of Inquiry into Library Services in Victoria, 1964, pp. 12–14, VPRS 2586/P0.

⁵⁹ Sir George Whitecross Paton (1902–85), Vice-Chancellor University of Melbourne 1951–68.

⁶⁰ Chief Secretary's Office, inwards correspondence (1964–65) 8112, VPRS 4723/P1.

⁶¹ Sir John Vincent Dillon, Under-Secretary, Chief Secretary's Department.

I feel the Trustees are best qualified to comment on this aspect and for what it is worth I am inclined to agree with the comment they make here. My only remark is that if the Archives had a separate Division it would have its set complement of officers discharging their position as Archivists.⁶²

To unblock the stand-off, Dillon eventually convened a meeting with both the Free Library Service Board and the Library Trustees, on 27 September. The Chief Secretary's Office note of the outcome is that '(e) the Public Records should not be regarded as a separate department because it needed to be supported by a library organization'. Thus the entire raging debate of the Jungwirth Report had been reduced to the single issue of whether a separate archives would need its own adjunct library. When Dillon finally provided advice to his Minister on the matter, on 18 October, the issue of public records did not even rate a mention. However, a minimal mention of archives would appear in the Bill.

Interestingly, the first rough notes on the file regarding proposed legislative implementation of the outcome of Jungwirth—a Bill that would establish the Library Council of Victoria and create the position of State Librarian—still contained a proposed power for the Public Records Division to 'provide for the storage, preservation and organization of public records', as well as clauses on the retirement of records and access to them. However, such proposals did not survive the redrafting process.

When the *Library Council of Victoria Act 1965* ultimately became law, it not only created the Library Council of Victoria but included the new function 11(n). This latter empowered the Council 'to manage and control the preservation of public records', though earlier proposed references to destruction and access were not included. So for the first time, Victoria had archival legislation, albeit a half-considered phrase thrown into legislation whose concern in every other detail was matters of library administration. It was a legislative framework that, for archives, would remain in place for only eight years.⁶³

⁶² Chief Secretary's Office, inwards correspondence (1964–65) 8112, VPRS 4723/P1.

⁶³ It may be argued that Victoria's *Companies Act 1958* was the first legislation in that state to refer to archives. In a passing reference, it required that consultation with the Public Library take place before any records be destroyed.

The Public Records Advisory Committee

Another Jungwirth reference related to the establishment of an archives Advisory Committee to advise the State Librarian. Harry Nunn advised the State Librarian by memorandum on 2 October 1967 of the ‘great assistance’ such a committee could provide, as well as offering suggestions for such a committee’s composition and membership. On 25 October, the Library Council approved the creation and the membership of the Committee.⁶⁴ Some months later, on 27 May 1968, State Librarian Kenneth Horn⁶⁵ wrote to the Acting Under-Secretary proposing the establishment of an Advisory Committee to advise the State Librarian on Victoria’s archival needs. Horn referred to the Jungwirth recommendations that ‘the Victorian library authority should not be required to make major policy decisions concerning public records, as policy should be laid down in legislation governing public records and in departmental instructions regarding access to records’, and that an Advisory Committee on public records should be set up. Horn added that the Library Council had accepted his recommendation for such a Committee to be established comprising senior officers from the Premier’s Department, Treasury Department, Chief Secretary’s Department and Education Department. In addition, he advised that membership of this Committee would also include several of Harry Nunn’s long-established allies—HC Chipman, WB Russell⁶⁶ and AGL Shaw⁶⁷—as well as Deputy Under-Secretary Reg Veitch and a representative of Treasury, MAR Synnott.

The first meeting of the Public Records Advisory Committee of the Library Council of Victoria was held on 21 February 1969. Its agenda included consideration of a Background Paper, a Survey of Public Records Legislation in other places, suggested headings for legislation, and the issue of the definition of public records. Subtly, the Committee’s role had become the preparation of a path towards a Public Records Act. Over the next eighteen months, the Committee held thirteen meetings, the final of which took place in the State Librarian’s office on 21 October 1970.

⁶⁴ Extract from Library Council Minutes, VPRS 5716/P1.

⁶⁵ Kenneth AR Horn was appointed Victoria’s first State Librarian in 1967.

⁶⁶ William Binns Russell (1911–2002), OBE, Assistant Director-General of Education. In December 1968, Ron Reed replaced WB Russell who had departed for overseas service as Director of Education at the Commonwealth Secretariat in London. Later, Russell returned to the Committee from its tenth meeting on 26 February 1970.

⁶⁷ Alan George Lewers Shaw (b 1916), AO, then Professor of History, Monash University. Professor Shaw was to become Chair of the Public Records Advisory Council 1980–86.

Already by its ninth meeting, on 18 December 1969, the Advisory Committee was able to list its key decisions, which would provide the basis of the eventual Public Records Act. These decisions were namely: that a Public Record Office and an office of ‘State Archivist of Victoria’ should be created; that there should be an Advisory Council of eight to ten members to assist the Archivist; that specific definitions of ‘public record’, ‘public offices’ and ‘public officers’ should be adopted; that agencies of the state should be responsible for making full and complete records of their activities; that each agency should have a records management program; that there should be a capacity for public access to public records; and that there should be powers respecting the alienation and recovery of public records out of custody.⁶⁸ Once embodied in the Committee’s Report, these same recommendations were incorporated as an Appendix to the Library’s Council’s report, *Library Services in Victoria*—an action signalled by State Librarian Kenneth Horn at the twelfth meeting of the Advisory Committee, on 16 September 1970. At the same meeting, Horn was further able to signal that ‘the Committee’s Report had been accepted in principle, and the Chief Secretary now asked for a statement of the administrative details needed to make the report effective.’⁶⁹

Passage through Parliament of the Public Records Bill

Following acceptance in principle of the Public Records Advisory Committee’s Report late in 1970, drafting commenced on the Public Records Bill. Unexpectedly though, the first draft, dated 22 March 1972, provided a dramatic departure from what had been anticipated. It proposed vesting authority for public records in a body to be called the Public Records Council. This movement away from the Committee’s ideas appears to have been the result of deliberations by a Parliamentary Bill Committee, which perhaps had reservations about vesting powers in an individual—the Keeper of Public Records—rather than in a statutory authority, as was customary at that time in Victoria.

The Bill as first drafted elicited a strongly worded memorandum to the State Librarian from Harry Nunn, protesting that it ‘represents a fundamental departure from the concepts which led to the request for legislation on public records’. By providing for a Council rather than a Keeper to manage the public records, the Bill downgraded the proposed role of the Keeper to being merely that of ‘implement[ing] the directions and resolutions of the Council’. Nunn declared that:

68 Library Council of Victoria, Public Records Advisory Committee, Decisions Reached by the Committee, Meeting 9, 18 December 1969, Item 4, VPRS 5716/P1.

69 *ibid.*, Meeting 12, 16 September 1970, Minutes.

the creation of a Council to manage the Public Records Office is not only wrong in principle but is also an affront to the archival profession and the public service ... It is unthinkable ... that management and control of public records could be vested in a Council consisting of a miscellaneous group such as a Supreme Court judge, a senior academic at one of the universities, the State Librarian and other persons whose identity is still to be determined.

He concluded:

I condemn the basic structure of this Bill ... and its failure to create a Public Record Office ... as set out in the Report of the Public Records Advisory Committee.⁷⁰

This forthright protest was also signed by all members of the archives staff, who stated that they 'unanimously concur with the above'.⁷¹

Harry Nunn then produced a fuller, twenty-two-page rejection of the Public Records Bill as drafted, in which he pointed out that although the Parliamentary Counsel had not been provided with a copy of the Report of the Public Records Advisory Committee, she had herself drawn attention to the discrepancy between the Bill and the Report. After opining that 'the Parliamentary Counsel is to be congratulated on her letter to the Under-Secretary which precisely lists the basic differences between the draft Bill and the recommendations contained in the Report of the Public Records Advisory Committee', Nunn asked whether it would 'seem appropriate to ask how this came about since these explicit recommendations of the Public Records Advisory Committee were adopted in full by the Library Council of Victoria and have been accepted in principle by the government with a view to their implementation'.⁷²

⁷⁰ Typescript memorandum to State Library, Public Records Bill Draft, 22 March 1972, VPRS 5716/P1.

⁷¹ *ibid.*

⁷² Memorandum by HW Nunn, Public Records Bill 1972, VPRS 5716/P1. Asked about this issue in 2003, Harry Nunn had yet to receive an answer to his question.

Following these protests, Harry Nunn worked over Easter with agency typists to produce a revised draft of the Bill,⁷³ which reverted to the principles originally recommended by the Public Records Advisory Committee. In so doing, he succeeded in defeating a serious attempt to subvert the creation of a Public Record Office—but only after strenuous personal efforts. When the third draft of the Bill, dated 15 May 1972, was provided to him, Harry Nunn was able to advise the State Librarian that:

as instructed by you, I have not discussed this with members of the Archives staff, but make the following comment—the draft Bill is an excellent one carrying out the basic concepts and principles set out in the report of the Public Records Advisory Committee ... It represents a first class restructuring of the previous draft bill (22/3/72) by creating a Public Record Office ... while the draft Bill does not go as far as the Committee recommended in requiring record producing agencies to appoint an officer ... whose purpose will be to facilitate the disposal of public records, it recognizes the concept that records management is not an autonomous discipline.

In conclusion, he described the third draft Bill as ‘sound, realistic, workable and flexible’.⁷⁴

The Public Records Bill was ultimately introduced into the Legislative Assembly by the Chief Secretary, ER Meagher, on 15 November 1972. The second reading speech was given by him later that day,⁷⁵ after which the adjourned debate resumed on 30 November. During the debate, the Hon. Barry Jones, then Labor Member for Melbourne, opened for the Opposition. Jones was critical of several aspects of the Bill: the wide powers given to the Keeper, the wide definition of a ‘public office’, the weakness of the proposed Public Records Advisory Council, and the wide definition of ‘public records’. He concluded that ‘the Opposition believes this Bill is far too wide’, indicating that Labor would vote against it unless it were changed.⁷⁶ Following Jones’s attack and some less critical Opposition comments from the Hon. Tom Edmunds, MLA, debate was adjourned again and did not resume for four months.

⁷³ Personal interview, 20 February 2003, Sandringham.

⁷⁴ Nunn to Horn, Public Records Bill 1972, Third Draft, VPRS 5716/P1.

⁷⁵ *Victorian Parliamentary Debates (Legislative Assembly)*, 1972, vol. 309, pp. 2049 and 2056.

⁷⁶ *ibid.*, vol. 310, pp. 2813–17.

A final rearguard action against the proposed public records legislation emerged in February 1973, when several book collectors and antiquarian booksellers took issue with aspects of the Bill. The aspects they contested were namely those dealing with: the definition of a 'public record'; controls over trade in public records; and the valuation of records where the owner is compensated on their acquisition by the Public Record Office. Admittedly these issues had been treated in a somewhat perfunctory manner in early drafts of the Bill. For example, a 1971 draft simply proposed that, in the case of a public record in bona fide private ownership, the Keeper should have the capacity to apply to a judge in chambers for a declaration that the item is a public record. That done, the draft provided that compensation could be paid on the basis of purchase price, or, all else failing, that the Keeper could require the record to be produced for copying.⁷⁷ This draft was silent on how compensation would be determined, and provided no mechanism for interaction between the Keeper and a proposed sale of a public record.

Similarly, the third draft of the Public Records Bill, dated 15 May 1972, provided in Clause 13 that, 'Where a person has in his possession, other than as a public officer in the course of his duties, a public record worthy of permanent preservation, the Keeper of Public Records may by notice in writing require him (a) to surrender the record to the Public Record Office', with compensation equal to the amount of consideration that person paid to acquire the record. By 15 November 1972, the Bill introduced into the Legislative Assembly had been developed to include the concept of 'prescribed public records', with a sub-clause providing that such records should, on the death of the owner, become the property of the state, with the Keeper able to compensate the estate of the owner to the extent of the market value of the record at the date of death of the owner.

On 1 February 1973, the antiquarian bookseller Kenneth Hince saw Chief Secretary Meagher regarding these issues. Hince argued that:

It has been traditional for booksellers of my class to negotiate books, documents and records for centuries past ... the proposed Bill will have the effect of subtracting a large area of documentary material from my legitimate trade, bringing severe hardship to an honorable and traditional profession already practiced with difficulty in Australia.⁷⁸

⁷⁷ Public Records Act 1971 (Vic.), typescript, marked Final Draft, VPRS 5716/P1.

⁷⁸ Memorandum of Proposals, Hince to Meagher, 1 February 1973, VPRS 5716/P1.

He requested that the Bill be reconsidered, with a narrower definition of ‘public record’, a different mechanism for determining the market value of any public record once defined, and a redrafted provision for open sale of documents and public records that would give greater consideration to the rights of private owners and the free operation of the antiquarian book trade.⁷⁹ Hince further suggested that the notion of compulsory copying of such records be abandoned as it would reduce their market value.

Rodney Davidson’s⁸⁰ submission addressed the issue of prescribed records under s. 16 of the Bill, in which it was proposed that the Keeper be given thirty days notice of intention to sell a prescribed record, as well as the right to acquire the item at the price bona fide offered for it, and the capacity to give direction as to the safekeeping of the record.

In the event, the final draft of the Bill required Ministerial assent for the proposed sale of a public record and seven days notice of proposed sale. It also accorded power to the Minister to acquire the record at the purchase price nominated in an agreement to sell. These provisions substantially met Davidson’s concerns. And in prohibiting the Keeper from making available to the public copies of records that had been compulsorily copied, the final draft also addressed Hince’s concerns.

Resumption of debate

Back in Parliament, on 7 March 1973, the Hon. Ian McLaren, Liberal MLA for Bennettswood and a noted bibliophile,⁸¹ spoke in favour of the Bill, tabling a letter of support from the Royal Historical Society of Victoria. McLaren refuted criticism that University of Melbourne Archivist Frank Strahan had recently promoted in *The Age* and *The Herald* to the effect that the proposed legislation ‘would allow autocratic centralized control over information and infringe personal liberties as well as the autonomy of universities’. McLaren also spoke against the ‘misconceptions’ held by book collectors and antiquarian booksellers, but proposed some changes for Clause 16 which he suggested would allay these concerns.⁸²

⁷⁹ *ibid.*

⁸⁰ Rodney Disney Davidson (b 1933), AO, OBE, lawyer; then Chairman National Trust of Australia (Victoria), also a book collector and author of *A Book Collector’s Notes* (1970).

⁸¹ McLaren had been a sometime Committee Member of the Book Collector’s Society.

⁸² *Victorian Parliamentary Debates (Legislative Assembly)*, vol. 311, pp. 3873–9.

Then, after reminding Parliament of the key role that the Royal Historical Society of Victoria had taken in 1910 in lobbying for the formation of a State Record Office, McLaren read into Hansard a letter of support from the Society for the currently proposed legislation. Signed by the Secretary, Marjorie Tipping, this letter on behalf of the Society stated: ‘The Council of the Royal Historical Society at a meeting on 27th February agreed in principle with the Public Records Bill.’ Once again, the Society had taken the broad view and made a timely statement supporting archival progress while other players had become bogged in matters of detail that were blocking forward movement.

The Committee stage of the Bill took place on 14 March 1973, and with amendments in relation to the recovery of prescribed records, the Bill finally passed the Legislative Assembly on 5 April.⁸³ After consideration by the Legislative Council, where the Bill was introduced by the Hon. Alan Hunt, MLC, on 10 April,⁸⁴ it was passed on 11 April with a further minor amendment. It remained only for the Bill to be passed by the Legislative Assembly, which duly occurred on 11 April.⁸⁵ With that, the legislation was proclaimed forthwith, and so the Public Records Act came into effect on 17 April 1973.

⁸³ *ibid.*, vol. 312, p. 5080.

⁸⁴ *ibid.*, vol. 312, p. 5297.

⁸⁵ *ibid.*, p. 5393.

*S*cope and significance of the Act

Creation of the Public Record Office

What were the key features of this legislation that had finally been achieved? First and foremost, it created the Public Record Office. Section 3 of the Public Records Act affirms that ‘for the better preservation, management and utilization of the public records of the state there shall be established an Office to be known as the Public Record Office’.⁸⁶ Further, this Office was conceived as an entity, not a legal person.

In other states up to that time, it had been customary to create as the archival authority a statutory authority defined as a legal person (with powers to sue and be sued). This was the case, for example, with the Archives Authority of New South Wales, the Library Board of Western Australia,⁸⁷ and even the State Library of Victoria under Victoria’s *Libraries Act 1965*.

A similar measure had been suggested twice in Victoria also: in 1964, by the Jungwirth Inquiry which proposed to constitute the Library Authority of Victoria as the archival authority; and in 1972, by the Parliamentary Bill Committee on the Public Records Act, which suggested that a Public Records Council should exercise the key powers under the Act. However, as we have seen, neither of these recommendations was enacted. Indeed, after vehement protest by Harry Nunn and all the archives staff in 1972, and a redraft by Nunn himself of the relevant sections over Easter of that year, the last attempt at creating an archival authority defined as a legal person failed and powers thereafter were given clearly to the Keeper.

The obverse of this was twofold. In the first place, the powers in the legislation would be exercised by a person—the Keeper of Public Records—not a board. Accordingly, the board in the public records area would be an advisory board—the Public Records Advisory Council—not an executive board. Commensurate with this, the powers of the advisory board are restricted to

⁸⁶ *Public Records Act 1973* (Vic.), s. 3.

⁸⁷ *Library Board of Western Australia Act 1951–83* (WA), ss. 5 & 7 (now repealed).



The Public Records Advisory Council in 2003.

Photograph by Norman Wodetzki.

promoting co-operation between the Public Record Office and public offices, and to reporting and making recommendations to the Minister on any matter relating to the administration of the Act. In the event, the Public Records Advisory Council has come to exercise a broad and useful function—much wider, and perhaps more useful, than Harry Nunn had contemplated when his main concern was to ensure that the critical steps needed to bring alive his archival vision were not frustrated at Board level.

On the other hand, Nunn’s assertion of the value of the role of Keeper of Public Records as a personal focus for responsibility has stood the test of time. Like the Auditor-General, the Surveyor-General and other historic roles created by statute, the Keeper of Public Records is able to bring professional judgment to bear on a critical issue in the public interest. During the late 1980s, when managerialism was the prevailing ethos in the Victorian Public Service, managerialists often sought to remove such statutory offices, which were seen as potential obstacles to the efficient use of resources. However, the experience of the 1990s, when a radical government did remove some such offices and threatened others, led to a reconsideration of the issues involved. The office of Keeper of Public Records only narrowly survived the managerialist onslaught, but once again the case for this special role in government seems clear.

The role of Keeper of Public Records

The pivotal power in Victorian archival legislation is given to the Keeper of Public Records, who is to be appointed subject to the Public Service Act, the Public Records Act, and the general direction and control of the Minister.

Under s.7 of the Public Records Act, the Keeper was given responsibilities for (i) the preservation and security of records under his control; (ii) the logical and orderly classification of such records and the publication of lists, indexes and other guides facilitating their use; (iii) the duplication and reproduction of public records for official and other purposes; and (iv) the authentication of copies of and extracts from public records required as evidence in legal proceedings and for other purposes.⁸⁸

Other sections gave the Keeper power to publish articles or public records under his control; establish standards for the management of public records; transfer records to a place of deposit appointed by the Minister; purchase records worthy of preservation; after consultation, destroy or dispose of records; and report to his Minister and thereby to Parliament.

⁸⁸ *Public Records Act 1973* (Vic.), s. 7.



Harry Nunn, the tireless and visionary first
Keeper of Public Records in Victoria and
architect of the Public Records Act.

Courtesy of The Age.

Certain key powers were vested in the Minister. These include approving the withholding of access to certain classes of records; appointing places of deposit for records outside the Public Record Office; approving compensation to persons required to deliver a public record to the Keeper; notifying an owner of a prescribed record as to whether consent to a sale is given and of intention to acquire the record; and approving the acquisition of prescribed records and compensation to their owners.

A single power was reserved to the Governor in Council, namely that of declaring that a record is prescribed for the purposes of the Act. (A later amendment, described below, devolved this power to the Minister.)

In this allocation of powers, the Keeper was assigned the central role. Little was required either of the Advisory Council or of the Governor in Council, while the involvement of the Minister was focused on two areas of possible sensitivity: access, and the recovery of alienated records.

In 1986, an additional power was given to the Keeper of Public Records, namely the power to enter a public office or place where public records are stored, to inspect the storage or conservation of the records or the records management program being conducted there. This was an area where Victoria lagged behind the Commonwealth and most other states, which by that time had legislated already for similar powers, either on a mandatory⁸⁹ or an invitational⁹⁰ basis. It is worth noting that while legislation to provide the Keeper with this power was passed in 1986, this particular section of the Act was not proclaimed until eight years later.

The definition of ‘public records’

The definition of ‘public records’ in the Public Records Act was intended to be comprehensive and flexible, and to take into account the fact, already obvious by 1973, that modern technology would enable information to be stored in many different forms, including microfilm and electronic media. A ‘public record’ was defined as (i) any record made or received by a public officer in the course of his duties and (ii) any record made or received by a court or a person acting judicially in Victoria. Additionally, ‘record’ was defined as ‘any document within the meaning of the *Evidence Act 1958*’.⁹¹

⁸⁹ Commonwealth and Tasmania.

⁹⁰ New South Wales, Queensland, South Australia and Western Australia.

⁹¹ *Public Records Act 1973* (Vic.), s. 2.

The formulation ‘made or received in the course of his official duties’, as recommended by the Public Records Advisory Committee, seems to be the sole instance in which the Public Records Act drew from the New South Wales *Archives Act 1960*.⁹²

The definition did have a rider, however. A ‘public record’, according to the Act, ‘does not include a record which is beneficially owned by a person other than the Crown or a public office’. This rider was added to accommodate the solution adopted in 1973 to the problem of alienated records. In order to facilitate the process of prescription and acquisition of such records, it was necessary to concede that beneficial ownership could exist.⁹³ In this respect, the Victorian legislation is weaker than that subsequently passed by other Australian jurisdictions.

Unlike the definition of a ‘public office’, that of a ‘public record’ contained a link to another framework law, the Evidence Act. This link existed in the expectation that the needs of the courts would result in the progressive updating of the definition contained in that Act. It was intended that as this took place, the Public Records Act would benefit and be upgraded by virtue of the link. However, in practice, the Evidence Act has not been updated as regularly as had been anticipated.

The Victorian Public Records Act does not extend to the preservation and collection of ‘objects of archival significance’. In contrast, Part VI of the Commonwealth’s *Archives Act 1983* does provide for the transfer to the Archives of an object, or a sample of a specified class of objects, that is, in the view of the Minister, part of the archival resources of the Commonwealth. While the issue has not justified specific mention in the legislation in Victoria, the Victorian Archives do contain some ‘objects of archival significance’. These include transferred records storage cabinets which add to our understanding of the administrative context of the records series they once contained.

Another interesting difference between the Victorian and Commonwealth legislation is that only the latter provides a capacity to collect records of persons associated with government. Section 3(2)(a) of the Commonwealth Archives Act includes in the ‘archival resources of the Commonwealth’ those records that relate to ‘a person who is, or has at any time been, associated with a Commonwealth institution’. By contrast, the Victorian Act contains no such provision. So while some collections of the records of public officers are held at the Public Record Office Victoria, the individuals are treated as ‘transferring agencies’ in the VPRS series framework.

⁹² *Archives Act 1960* (NSW), s. 12. A copy of this Act is among the background papers of the Public Records Advisory Committee, VPRS 5716/P1.

⁹³ *Public Records Act 1973* (Vic.), s. 2.

The definition of ‘public offices’

The intention of the framers of the Public Records Act was that the legislation should cover all public bodies—that is, that the legislation should cover all Victorian public records, regardless of the kind of public body that had created them. Their aim was to achieve this by using an all-encompassing definition, rather than seeking, as in the United Kingdom’s *Public Records Act 1958*, to list them all individually in a Schedule to the Act. The Victorian approach is the more elegant, avoiding endless amendments to the Schedule as machinery of government changes are made. However, the UK approach, though clumsy, does have the merit of removing doubt as to whether or not a specific body is covered by the legislation.

Accordingly, the Public Records Act was applied to ‘public offices’, defined as (i) any department, office or branch of the Government of Victoria; (ii) any public statutory body corporate or unincorporated; (iii) any municipality or other body constituted by or under the *Local Government Act 1958*; or (iv) any other local governing body corporate or unincorporated.⁹⁴

Although this coverage looked comprehensive, there was argument, even before the Act was passed, over whether some public bodies should be excluded. Certain universities, for example, argued that they should not be covered, as it might impinge on academic freedom or perhaps confine their own capacities to develop archival collections. In the end, while successive legal opinions confirmed that universities were indeed covered by the definition, their anticipated problems were overcome. In practical terms, the universities were able to develop their own archival collections, and academic freedom was not undermined by the Public Record Office or its legislation.

One area where the Public Records Act is silent is that concerning the records of Parliament. In the Commonwealth Archives Act, there is specific provision exempting parliamentary records from the application of the Act. In Victoria, parliamentary records are not expressly covered, and ‘Parliament’ does not fall within the definition of a ‘public office’. This intention was stated in the Minister’s Second Reading Speech on the Bill. As with the universities, this issue was eventually dealt with in practice by amicable agreement between the Presiding Officers and the Keeper of Public Records. Today, increasing quantities of parliamentary records form part of the Victorian Archives, though they are covered by distinctive access arrangements requiring authorisation from the Clerks of the Papers of each House.

⁹⁴ *Public Records Act 1973* (Vic.), s. 2.

The place of records management in the legislation

In contrast to earlier ‘first generation’ archives provisions that basically allowed for the transfer of historical records to a state library, later ‘second generation’ archival legislation makes provision for influencing contemporary records management in departments. While the Victorian Public Records Act was a pioneer of ‘second generation’ legislation, it is one thing to see a benefit in being able to influence records management, and another to find a formula for doing so that will not alienate department heads who fear losing their freedom to manage their departments and agencies as they see fit. Achieving satisfactory ‘second generation’ legislation will therefore be easier if the Archives can provide guidance to departmental heads as to what is required of them in records management, through standards. The legislation will also be more effective if it allocates unequivocal records management responsibilities to departmental heads. Victoria’s Public Records Act meets both these requirements.

Sections 12–13 of the Act are those devoted to records management. The mechanism provided in the legislation as originally passed relied on two complementary methods to ensure that records in departments were properly kept. On the one hand, the Keeper’s powers were to be exercised through the setting of ‘standards’ for the management of ‘public records’. These standards could apply to the creation, maintenance, selection, transfer and disposal of public records.⁹⁵ On the other hand, the person in charge of a public office had counterpart responsibilities:

to cause to be made and kept full and accurate records of the business of the office; to carry out a program of records management in accordance with standards laid down by the Keeper; and to take action for the recovery of records unlawfully removed from the office.⁹⁶

These provisions largely followed the model adopted in the United States Federal *Records Act 1950*, following the report of the first Hoover Commission (1947–49). They were based on ideas introduced to Australia by TR Schellenberg in his 1954 lectures and 1956 book *Modern Archives*, and were the subject of discussion at the Public Records Advisory Committee in 1969.⁹⁷

⁹⁵ *Public Records Act 1973* (Vic.), s. 12.

⁹⁶ *Public Records Act 1973* (Vic.), s. 13.

⁹⁷ The issue of standards was the subject of Harry Nunn’s 18 April 1969 paper to PRAC, entitled ‘Creation and Custody of Public Records’, 3–69/3 item 3b. The issue of agency heads’ responsibilities were covered in Nunn’s 20 May 1969 paper to PRAC, entitled ‘Creation and Custody of Records’, 4–69/4 item 3a. See VPRS 5716/P1.

The Federal Records Act requires the head of each US Federal Agency ‘to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and designed to furnish the information required to protect the legal and financial rights of the Government and of persons directly affected by the Agency’s activities’. It also requires the head of each agency to establish an active, continuing program of records management in compliance with the Act and Regulations.⁹⁸

Later, in 1986, as we have already mentioned, an additional power⁹⁹ was added to Victoria’s Public Records Act, whereby the Keeper was empowered to enter a public office to inspect the storage and conservation arrangements in place there for carrying out the required records management program. Again as previously noted, it was some years before the State Government agreed to proclaim this section of the Act.

The treatment of records management in Victorian legislation is one of its most interesting and forward-looking features. Although by 1917 the importance of good records management had already been recognised in Victoria, there was no real legislative coverage of these issues. However, once it became clear that records management would be the subject of legislation, how were its drafters to deal with the potential conflict between the powers of an agency CEO and those of the Keeper? What if the agency head did not wish to listen to what the Keeper thought best for his or her records, or worse, wished to destroy information that might disclose misfeasance? Essentially, two legislative mechanisms were introduced to address the issues.

The first mechanism, the use of standards, was an advanced concept for its time. Up to and beyond 1973, a more familiar mechanism for the exercise of internal power within bureaucracies would have been some combination of inspection powers and a capacity (resting perhaps with a Minister, perhaps with a public officer) to give directions. The concept of standards requires impartiality and objective principles to govern the relationship. Subsequent to 1973, Victoria has seen the evolution of environmental standards, performance standards in building approvals, and standards of service in the context of performance measurement. As well, the Standards Association of Australia has come to play a role in setting standards for management. However in 1973, the nearest standards had come to archives was in their relation to document conservation.¹⁰⁰ The

⁹⁸ *National Archives and Records Act* (US), 44 USC Chapter 31.

⁹⁹ *Public Records Act 1973–86* (Vic.), s. 13A.

¹⁰⁰ For example, British Standards Institution BS4971 Part I, ‘Recommendations for Repair and Allied Processes for the Conservation of Documents’, was issued in 1973.

virtue of standards lay in the fact that they could be set by the Keeper and applicable to all departments. An agency head could then, within his or her own priorities and capabilities, move toward their implementation. In the event, the use of standards became a central tool in practice, as had been planned, and many were issued after the passing of the Public Records Act.

The second mechanism was even more breathtaking. It involved the creation of a responsibility for an agency head to 'cause to be made and kept full and accurate records of the business of the office'. This had profound democratic importance, recognising that accountability depends on the existence of full and accurate records, and on keeping those records once made.

The visionary nature of this legislation is illustrated by the fact that both concepts—that of departmental responsibility for making full and accurate records, and that of using records management standards—are still being adopted almost verbatim in the archival legislation of other states thirty years after they were pioneered in Victoria.¹⁰¹

In the late 1980s, when successive governments around Australia encountered severe financial problems and Royal Commissions were appointed to examine their causes, the adequacy of the records of administration leading up to the crises was often an issue. A particular case was that of the Royal Commission into WA Inc, where the matter of the inadequacy of record making was specifically raised. Victoria's Public Records Act was prophetic in defining and assigning the fundamental responsibility to keep 'full and accurate records' to agency heads.

Principles of access and closure

The principles of public access contained in the Public Records Act were quite liberal. The Act originally covered the issue in two sections. Section 9 concerned records containing information of a private or personal nature, and it allowed these to be withheld from access by the Minister in charge of the Public Record Office, after consultation with the Minister from whose portfolio the records had come. This would afford appropriate privacy protection to individuals while allowing the integrity of the state's personal records to be maintained.

For other records, s. 10 of the Act as originally framed provided for a twenty-five-year rule.¹⁰² But in contrast to the Australian Commonwealth and British mechanisms, this did not mean that records would be closed to public access until twenty-five years had passed. Instead, twenty-five

¹⁰¹ For example, *State Records Act 1998* (NSW), ss. 12–13; *Public Records Act 2002* (Qld), s. 7.

¹⁰² *Public Records Act 1973* (Vic.), s. 10.

years after transfer was to be the normal maximum that the Minister would require a record to remain closed. Within this maximum, the Minister could, for reasons specified in a notice published in the *Government Gazette*, close certain records for periods of five years at a time after their transfer to the Public Record Office.

These measures continued the pragmatic and generally liberal approach to access that had existed prior to the passing of the Act, whereby each consignment had a specific Access Authority. On the basis of these authorities, it had been possible to make many records series available to the public soon after their transfer.

The balance of the 1973 formula was toward access rather than closure, but it gave very brief coverage to a complex issue. Sometimes this balance may have resulted in Ministers erring on the side of caution by directing that classes of records remain closed longer than they should, because, within a series, there were a few records of concern. On balance, however, it was a liberal provision, though it did raise the possibility that some agencies in sensitive areas might be reluctant to transfer records they felt needed longer guaranteed protection. As described later, this was to be the subject of further legislation in 1994.

Recovery of alienated records

Over time, a relatively small but sometimes significant number of public records are lost from official custody and fall into private hands. In the years before Victoria had any archival legislation, the status of some public records may have been unclear, and many items of interest may have passed innocently to collectors. During the lead-up to the passage of the Public Records Act, substantial public controversy surrounded the issue of what mechanism should be provided for their recovery.

The Public Records Advisory Committee had considered the possibility of recommending that records out of custody be subject to a requirement for ‘surrender on demand’, and indeed the Committee discussed the provisions of New Zealand’s *Archives Act 1957* which provide for this. The Committee found though that a requirement of unconditional surrender would be harsh, and recommended instead that the Act allow such records to be ‘immobilized’ and then surrendered with compensation if acquired ‘bona fide’. Where records had been improperly or illegally removed, it supported recovery by common law action.¹⁰³

¹⁰³ Report of the Public Records Advisory Committee, p. 36, VPRS 5716/P1.

The solution found at that time was the mechanism of ‘prescribed records’.¹⁰⁴ Under these provisions, the Governor in Council may declare certain classes of records to be ‘prescribed’. This has the effect of ‘immobilizing them’, as the Committee had envisaged. The formula for the definition of what records may be prescribed is wide. They may include ‘estrays’ or ‘records out of custody’, that is, any which ‘would be a public record ... but for the fact that it is beneficially owned by a person other than the Crown or a public office’. But a prescribed record can also be one that is ‘of special historic significance to Victoria’ or which ‘should be preserved by the state’. The latter two categories are extremely wide, and although they have never been used, they enact an important latent capacity to protect historic records in the public interest. Another subsection provides for a prescribed record to become the property of the state on the death of its owner, with independently assessed compensation being payable to the owner’s estate.

In 1986, an added power was inserted into the Act to provide for the compulsory acquisition of public records held in private hands, subject to independently assessed compensation.¹⁰⁵ Such a power had originally been recommended by the Public Records Advisory Committee and had formed part of the first draft of the Public Records Bill in 1971, but was not then proceeded with because of strong opposition by book collectors that culminated in Upper House amendments.

The ‘prescribed record’ model has significant limitations. Because such a record can be put up for sale, it is possible for market forces to put it out of reach of the Public Record Office. The process of publicising that an item is to be sold may generate levels of interest, and therefore prices, that are beyond what the state is prepared to pay. The possibility also exists that at an auction and with anonymity, different state agencies may bid for the same document, forcing the price up to unsustainable levels. On the other hand, the possibility of a record’s being prescribed may also exercise a downward pressure in that some purchasers may not wish to bid for a record that will ultimately revert to public ownership.

The issue of the recovery of such records is difficult yet requires perseverance. Records that are out of custody even in controlled circumstances, like those envisaged by these provisions, may still be damaged, lost, traded or illegally exported. Even if kept carefully, and retained in Victoria, such out-of-custody records render incomplete the series to which they belong and may result in historical judgments being made without access to important evidence. Further, the prescribed

¹⁰⁴ *Public Records Act 1973* (Vic.), ss. 16–17

¹⁰⁵ *Public Records Act 1973–86* (Vic.), s. 15A.



Chris Hurley, the second Keeper of Public Records, who professionalised the office through procedures, internal systems and standards.

Reproduced from Department of Property and Services,
Annual Report, 1987–88.

record model assumes that the Public Record Office will be able to keep track of all such records retained in Victoria—keeping informed of their exact whereabouts at any given time via an efficient database—so that public interests in these records can eventually be asserted. This also is a challenging task.

The May 1991 sale by a Melbourne auction house of a group of Aboriginal Protectorate records provided a case study of the operation of these mechanisms. After being prescribed by Order of the Governor in Council on 26 March 1991, these records were sold by the auction house, with the Minister's consent, for \$30,000. The purchaser was a philanthropic trust acting with the objective of ensuring that the records were maintained by a body in which the Aboriginal community had confidence. During the 1990s, particularly under Jim Berg's Chairmanship of the Public Records Advisory Council, the relationship between the Public Record Office and the Koorie community developed into a close and positive one, and so the records ultimately passed to the Public Record Office.

Places of deposit

Another useful feature of the Public Records Act is that it made provision for the establishment of places of deposit.¹⁰⁶ This mechanism is framed in quite a general way and allows the Minister to appoint, for specified classes of records, a place of deposit outside the Public Record Office. The Keeper then transfers such records to the place of deposit.

This means that, where appropriate, records of local significance can be housed in regional records centres, perhaps associated with libraries or heritage centres. So long as the necessary standards of professional custody are in place—concerning security against theft, disorder, and environmental threats—the Keeper can support regional centres rather than be in conflict with them.

As well, with the evolution of private records storage companies, this flexible provision has, without compromising the requirements of the Act, allowed the Keeper to authorise, in some instances, the contracting out by some public offices of records storage tasks.

¹⁰⁶ *Public Records Act 1973* (Vic.), s. 14.

*T*he Public Records Act today

Power of inspection–1986

The first significant amendment of the Public Records Act was undertaken in 1986, and involved inserting into the Act a power for the Keeper to enter public offices to inspect records storage and conservation arrangements, and the execution of their records management programs. Although this new section of the Act – s. 13A – was passed in 1986, governments were reluctant for many years to proclaim the section to make it effective. In the event, the section lingered for no less than eight years until finally being proclaimed on 18 October 1994.

Recommendations of the Legal and Constitutional Committee of Parliament–1989

The most important package of change to the Public Records Act came sixteen years after its passing, when the Parliamentary Legal and Constitutional Committee made eleven recommendations about archival legislation in its 1989 report on the working of Freedom of Information legislation in Victoria. While Victoria had pioneered Freedom of Information legislation among Australian state jurisdictions in 1982, the premises of the Freedom of Information approach to accessing public records were different to those of the Public Records Act. A process of reconciling the two approaches was inevitable, and the review by the Legal and Constitutional Committee of Parliament provided the opportunity to do that.

The Committee's eleven recommendations were: (i) that a thirty-year open access rule be introduced for Victorian records; (ii) that all public records be transferred to the Public Record Office once they have ceased to be readily required and no later than thirty years after their creation; (iii) that a mandatory system of review of departmental records management and storage be introduced; (iv) that records transferred under the thirty-year rule be assessed as to closure on a consignment basis; (v) that the procedure for closure under the Public Records Act be replaced with the same criteria as in the Freedom of Information Act; (vi) that the same review and appeal



Loretta Hambly, the third Keeper of Public Records and Director of Archival Heritage, under whose leadership PROV moved to project its image and enhance its public profile.

Private Collection. Reproduced with permission.

procedures should apply to closure under both Acts; (vii) that the period of retrospectivity under the Freedom of Information Act should be extended to thirty years; (viii) that the above changes be implemented progressively; (ix) that a capacity for 'special' and accelerated access be introduced into the Public Records Act; (x) that a provision similar to s. 62 of the Freedom of Information Act, providing protections to Public Record Office staff, be introduced; and (xi) that the archival status of registration and other revenue-generating records be reviewed.

Amendments—1994

Consideration of the changes that had been recommended by the Legal and Constitutional Committee took several years. Meanwhile, the government changed. In the event, it was 1994 when the changes were introduced, through Victoria's *Arts Institutions (Amendment) Act 1994*, so named because it was the Arts portfolio to which the Public Record Office then belonged.

These amendments, as well as making some changes in the membership of the Public Records Advisory Council, included provisions for the mandatory transfer of records to the Public Record Office after twenty-five years.¹⁰⁷ The 1989 Parliamentary Committee had recommended a thirty-year period for mandatory transfer, and provisions of this nature had been included or were proposed in the Commonwealth, New South Wales, Western Australia and Queensland archival legislation by 1994. Although mandatory transfer had not been one of the eight principles contained in the original Victorian Public Records Act, it is clearly important, overcoming as it does the possibility that significant record groups may remain in departments long after their administrative use has concluded.

Another amendment involved a revision of s. 10, allowing a Minister to close records for a non-revocable period of up to thirty years. This mechanism was also seen as necessary if Cabinet records were to be transferred, because the Cabinet Office and other central agencies required a 'guaranteed closure period' rather than the variable period provided in the original Act.¹⁰⁸ This was an interesting example of a trade-off. On the one hand, the potential opportunity to access some of these records in a shorter period than thirty years was lost. On the other hand, a confident basis was provided for very important and sensitive records to be transferred, thus giving them a higher probability of long-term survival.

¹⁰⁷ By the insertion into the *Public Records Act 1973* (Vic.) of the new s. 8A.

¹⁰⁸ MJ Tinsley, Acting Director PROV, to the Minister for the Arts, 20 December 1993. PRO file 81/488, part 3.

The amendment also devolved the power¹⁰⁹ to ‘prescribe’ a record downwards, from the Governor in Council to the Minister, and extended coverage of prescribed records procedures to ‘records in corporate hands’, not just those owned by natural persons.

The new legislation further provided protection against actions for defamation or breach of confidence, in accordance with Committee recommendations.

Unlike the original passage of the Public Records Act in 1973, the 1994 amendments legislation received support from the State Opposition as well as from the State Government.¹¹⁰

Managerialism strikes again

In June 1993, the issue of the allocation of roles between the Public Records Advisory Council and the Keeper of Public Records was debated once again. This debate came as a result of the passage of Victoria’s *Public Sector Management Act 1993*—legislation that ended the 110 years in which the Public Service Board had served as the independent central personnel agency in Victoria. The new legislation introduced a ‘private sector model’ into public employment, making heads of agencies ‘employers’. In this context, the proposal was made that the Public Records Advisory Council become the employer and assume executive responsibility for the Public Record Office. This concept, while coming from a new source, basically revisited the idea of an executive Public Records Authority that had been proposed twice before, in 1965 and 1973. On both of those occasions, the proposed measure had been rejected in favour of the model in which specific accountability was focused on the Keeper of Public Records. Although the 1993 proposal had its supporters, both the department head of the day, Des Hore, and the Keeper, Ross Gibbs, supported the existing model. According to Gibbs, in the model in place in Victoria and the Commonwealth:

the Act places responsibility on the Keeper and the Minister with the Public Records Council functioning as an Advisory Council. The benefit of this model is that it provides the Minister with alternative sources of advice (from the Council and the Keeper) and clearly allocates responsibility.¹¹¹

¹⁰⁹ Under the original *Public Records Act 1973* (Vic.), s. 16.

¹¹⁰ *Victorian Parliamentary Debates (Legislative Council)*, 24 May 1994, p. 33.

¹¹¹ Gibbs to Michael Mcrae, Arts Victoria, 3 June 1993, PRO file 81/488, part 3.



Ross Gibbs, the fourth Keeper of Public Records, whose achievements included obtaining the Victorian Archives Building in North Melbourne and projecting the authority and role of PROV in turbulent times.

Photograph by Norman Wodetzki.

Hore's comment was that 'if any organisation should stay "inside" the public service, it is the PRO'. On 2 August 1993, Bernie Stewart, Deputy Director, Resources, Department of Arts, Sport and Tourism, advised that the Public Record Office had not been included in Victoria's *Public Sector (Amendment) Act*.¹¹² The 1973 model had survived its latest managerialist challenge.

Accommodating privatisation and corporatisation—1996

The 1990s saw rapid administrative change in Victoria on many fronts. Another far-reaching area of change was the privatisation and corporatisation of many public agencies, particularly those that had formerly been public utilities organised as statutory authorities or corporations. Examples at that time included the former State Electricity Commission, Gas and Fuel, Totalizator Agency Board, Grain Elevators Board and the Melbourne and Metropolitan Board of Works, though others were to follow. With the privatisation of many of these bodies during the mid-1990s, the need to provide clarity regarding the status of their records became urgent. In 1996, it was seen as necessary to ensure that records created as public records were 'not inadvertently removed from the operation of the Act'.¹¹³ Act 61 of 1996, *Arts Institutions (Amendment) Act 1996*, inserted new ss. 2A–2B into the Public Records Act, giving the capacity for legislation to provide for a person or body 'to be taken never to have been a public office', or alternatively, to provide for a body to cease to be a public office on a certain day. In the latter case, the records of the body that were in existence prior to that day would remain public records.¹¹⁴ These amendments closely paralleled similar provisions (ss. 3A & 28A) that had been inserted in 1994 into the Commonwealth *Archives Act 1983* in response to the need for legislation triggered by Commonwealth Government corporatisations and privatisations, such as those of the Commonwealth Bank and the Commonwealth Serum Laboratories.

Another 1996 insertion to the Public Records Act added to the definition of a 'public office' by including a State Owned Enterprise as described under the *State Owned Enterprises Act 1992*.¹¹⁵

¹¹² *ibid.*

¹¹³ Tim Jacobs to Ross Gibbs, 19 July 1996, PRO file 81/488, part 5.

¹¹⁴ *Public Records Act 1973* (Vic.), s. 2B, inserted by Act 61 of 1996.

¹¹⁵ *Public Records Act 1973* (Vic.), s. 2(1).

Another Committee of Inquiry—1996

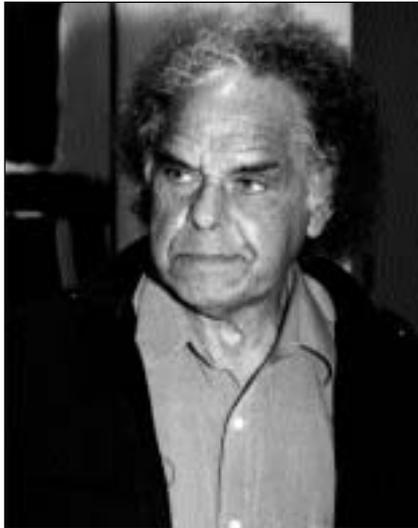
A further searching inquiry into the Public Record Office was completed in October 1996 by the Parliamentary Public Accounts and Estimates Committee. This inquiry, which had been commenced in the previous session of Parliament by the former Public Bodies Review Committee, reported with a comprehensive review of the activities of the office to that date. It is interesting to note that it made no major recommendations for changing the Public Records Act. Given the wholesale reform occurring throughout Victoria at the time, and its accompanying raft of legislative changes, this was a further tribute to the flexibility and enduring relevance of the Public Records Act. The inquiry was not without a vital outcome, however, for its recommendation that a new archival building be developed less than five kilometres from the Melbourne CBD provided a further critical achievement for the archival function in Victoria.¹¹⁶

Overview and prospects

It has been argued previously that Victoria's *Public Records Act 1973* provided a far-sighted and durable platform for the development of the archival function and records management in the state's public sector. It is clear that, with the passage of the legislation, Victoria moved from a backward to a leading position in Australian archival legislation. On the basis of this sound legislation, the Public Record Office has been able to improve dramatically its professionalism, resourcing and standards of service to the public and to departments.

Since 1973, the basic framework of the Act—built around its eight fundamental principles—has not been found wanting. This framework still constitutes the core of Victoria's archival policy. It provides the foundation upon which the active daily work of the Public Record Office is based. The three major changes that have been necessary so far—in 1986, 1994 and 1996—have all been in the spirit of the original legislation. Powers of inspection for the Keeper, requirements for mandatory transfer, powers of compulsory acquisition of records out of custody, and the clarification of the application of the legislation to records of privatised bodies, are all measures that further realise the original vision. It is the vision of a comprehensive and professional archival body, headed by a statutory office of Keeper, able to extend to all parts of the public sector, and inherently involved in contemporary records management as well as services to the research public.

¹¹⁶ Parliament, Public Accounts and Estimates Committee, Inquiry into the Public Record Office of Victoria, *Report*, October 1996.



Jim Berg, the longest serving member of the Public Records Advisory Council and now its Chair. He steered the Local History Grants Program and also established strong links between PROV and the Koorie community.

Photograph by Norman Wodetzki.

The ways in which we keep records, in which we configure public agencies, and in which the Public Record Office relates to diverse communities, continue to evolve. In today's electronic age, the Office provides international leadership in the development of approaches to public record keeping through its facilitation of the Victorian Electronic Records Strategy. Drawing on its close relationships with the Koorie community and the Koorie Heritage Trust, the Office has identified new aspects and opportunities for dealing respectfully and effectively with records relating to indigenous Victorians. New possibilities are also being explored for better serving the archival needs of rural and regional Victorians. And in response to the administrative complexity of today's post-privatisation era, the Office has set up a project called 'All Records From All Activities'. This has been designed to examine ways in which the original vision of a comprehensive archive should best apply to the range of public-private administrative arrangements that now exist in many areas. All or any of these developments may require legislative support for their realisation. So far, there is no reason to believe that the Public Records Act will not continue to provide the sound and flexible framework to which any necessary changes can be attached.

Much individual and co-operative effort has gone into creating the positive archival and records management circumstances that exist in Victoria today. Without doubt, the passage of the *Public Records Act 1973* was a critical contributor to this success. The thirtieth anniversary of this landmark legislation is an occasion worthy of celebration by all Victorians.

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*P*ublic Record Office Victoria (PROV) is Victoria's state archival authority, established under the *Public Records Act 1973*. Public records provide evidence of government actions, past and present. Whenever an individual has formal dealings with a government agency or department, a public record is created. Victorian records managed by PROV date from the establishment of permanent government services in 1836 and involve every facet of government, including Parliament, the Cabinet, departments and agencies, municipal councils, the courts, and schools. In 2003, PROV is celebrating 30 years as custodian of Victoria's archival heritage—managing, preserving and providing access to state public records for the government and people of Victoria.

