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 4. R. Keune, **The Historic Preservation Yearbook 1984-85**, National Trust for Historic Preservation.
 5. M. Carswell and J. Swaigen, (ed., revised edition) **Environment on Trial: A handbook of Ontario Environmental Law** (Canadian Environmental Law Research Foundation, 1978) (see page 386).
 6. A. Dobby, **Conservation and Planning** (London: Hutchinson and Co., 1978).
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 10. U.S. Department of the Interior, National Park Service, **Preservation Tax Incentives for Historic Buildings**, (n.d.).
 11. Ottawa LACAC Conference, 1983.

Editor's Note:

The author wishes to assure readers that the article's opinions are his own, and not necessarily those of the Ministry of Citizenship and Culture.

OF HERITAGE LAWS, TAXES AND CULTURALLY SIGNIFICANT HOLIDAY INNS

A PERSONAL VIEW

by Marc Denhez

Last week I received a call from a stockbroker: there was an excellent deal to get in on a multi-million dollar renovation project. In fact the project was so desirable that for every dollar invested, the Government of Ontario would make a grant to the taxpayer of thirty cents, tax-free! The proponent was an SBDC (a "Small Business Development Corporation", favoured by a complex government program). What, I asked, were the meritorious buildings which were so entitled to the taxpayer's largesse? The answer: four Holiday Inns

For the record, I have nothing against Holiday Inns. Someday, there may even be a Holiday Inns Conservancy (HIC), just as there might be a Group for Appreciation of Service Stations (GASS) or a National Union to Revive Disco (NURD). My question is this: why aren't comparable measures available for the rehabilitation of Ontario's **real** heritage?

The issue has become all the more urgent, over the past few months, as the **Ontario Heritage Act** has resurfaced as a topic for discussion. There are signs that the Province might finally bite the bullet and amend this statute after years of withering criticism directed against the Act from all sides. However, the process will not be easy: and the adversarial relationship of conservationists and developers will be exacerbated by the developers' accusation that the Province's heritage policy is "all sticks, no carrots".

Feeling can run suprisingly high. At a luncheon hosted by the Canadian Bar Association, I heard one prominent real estate lawyer once summarize: "There is no better sign of Canada's descent into Socialism, than to see a supposedly Free Enterprise government like Bill Davis's pass this heritage stuff!" On the other hand, the "inadequacies" of the Act were the cause of equal complaint. They were blasted by the Ontario Historical Society in 1977, and the criticism has never let up. Ontario is the only province in Canada which has no **provincial** protection of heritage buildings, no **permanent** protection of such buildings (whether provincially or municipally), and yet which has as much red tape for the modest measures which do exist. No other jurisdiction in North America, for example, has introduced such a complicated procedure for designating heritage districts.

Yet criticisms, even of a purely technical nature, have not been well received. For over a decade, there was no visible interest on the part of the government in amending the thrust of the legislation, such as it was. This is unusual by any standards: even the most commonplace statutes come up for periodic review, but the **Ontario Heritage Act** seemed oddly immune. Whether this was out of complacency, or out of a state-of-siege mentality, is unclear; but the stand-pat position extended even beyond government circles. At one conference, where I had been in-

vited to speak on the legal aspects of the Act, I was warned by the chairman (a pillar of the Ontario heritage establishment): "One more criticism of the Act and I'll cut you off."

Perhaps the saddest part of this state of affairs is that it is so unnecessary. It is indeed possible to create systems where developers and conservationists work together for the public interest, and where progressive heritage legislation can develop with a minimum of trauma and acrimony. To do so, one need merely observe the successes and failures of other jurisdictions in two key areas: (a) incentives, and (b) regulations.

Incentives are an essential component of a heritage strategy, because they render much of the "regulatory" side superfluous: rather than **compel** the private sector, one **co-opts** it. The most notable example is the U.S.A. Thanks to its system of tax measures (at the federal, state and municipal levels), developers are now placing full-page ads in publications, seeking designated heritage buildings to buy and rehabilitate. One ad says that desired projects can be in the twenty-million-dollar range. This has put a new complexion on the appeal procedures which accompany designations: the overwhelming majority of appeals are not by owners who object to being designated, but by owners whose designation has been declined! Canadians have often assumed that such a state of affairs could be introduced here only if the Federal Government changed the Income Tax Act; they forget that provinces can take action on their own. Alberta, for example, announced in December 1984 that it was exploring the possibility of its **own** income tax initiatives; there is no reason why Ontario could not follow suit. Furthermore, **municipal** tax measures are also conceivable, and have proved remarkably successful in the U.S.A. and several locations in Canada. Why is the small town of Perth the only municipality in Ontario to have made a fuss about them?

The wild card, in forecasting the future of tax measures affecting heritage, is this: if the Legislature does not introduce a new package, the courts will. At this very moment, cases are pending before courts in other provinces; those cases threaten to drastically reduce the **municipal assessment** of designated heritage property. This would affect the municipality's tax base, and could frighten many municipalities away from their heritage program. The solution is simple: governments **must pre-empt** this possibility by introducing their own carefully thought-out tax packages, rather than have a more awkward package shoved down their throats.

We now turn to the "regulatory" side of heritage legislation: designations, protection, etc. Ontario can also learn from other jurisdictions when it comes to drafting new legislation. In fact, there is no reason for hocus-pocus in looking at such legislation; one province produced a progressive draft heritage bill in as little as sixteen days.

Precedents abound. Every other province has empowered its **provincial** authorities to grant **permanent** protection to heritage buildings. Seven other provinces have empowered **municipalities** to grant **permanent** protection also: those provinces are Nova Scotia, New Brunswick, Quebec, Manitoba, Saskatchewan, Alberta and British Columbia; in the two remaining provinces (Newfoundland and P.E.I.), similar powers are granted to their capital cities. That leaves Ontario alone in Canada in confining municipal powers to **temporary** protection. Finally, if one looks to precedents in the U.S.A., Australia or the U.K., one witnesses an even more mind-boggling array of legal mechanisms, which all have one thing in common: they all give more solid protection to heritage than Ontario does.

But the protection of heritage against "Philistine" developers is hardly the only preoccupation of an advanced heritage statute. A comprehensive heritage package addresses not only the **symptoms** of the problems of our built environment, but also delves deeper. For example, legislation in New Brunswick, Quebec and Winnipeg makes heritage conservation an **obligatory** component of each municipal official plan. Tax legislation, mentioned earlier and common throughout the U.S.A., attacks the economic causes which threaten many heritage sites in the first place. Furthermore, legislators across North America are now tackling the onerous task of dismantling the invisible web of outdated rules which **discourage** rehabilitation (tax disincentives, limits on mortgages, inflexible building rules) and replacing them with discrete new measures which militate in the opposite direction.

It is possible to draft such legislation not only to make it more difficult to destroy heritage, but also to make it more economical to rehabilitate it. For example, several American jurisdictions have given heritage buildings first crack at governmental office space, thereby assuring a reliable market for the developer. Provinces in western Canada have been developing techniques to expedite building code approval and mortgage financing for heritage projects. The Province of Quebec and the City of Winnipeg have been pioneering new ways for officials to cooperate in heritage planning. The lessons to be drawn are at Ontario's disposal.

The rewards are not only cultural. In the U.S.A., heritage policies have helped fuel a \$52-billion annual renovation industry, which has had a domino effect on the construction industry and the GNP. The "smokestack" cities, whose downtowns had been written off, are witnessing an urban miracle. Core area housing is being improved. Tourism is up substantially. Needless to say, the support in Congress stems not only from the "heritage" fans; the most powerful lobby comes from those committed to economic growth, municipal affairs, housing, job creation and other affected areas.

Similar interests are starting to be heard in Ontario. The long-suffering crew at the Ministry of Citizenship and Culture, who have had to live with awkwardness and inadequacies of the current statute for years, are showing signs of a resurgence of optimism over the prospects for change. Elsewhere, at the Annual General Meeting of the Canadian Association of Housing & Renewal Officials (Toronto, last June), some of the brightest lights from what was then the Ministry of Municipal Affairs & Housing (now two ministries) were broaching both the subject of tax incentives for rehab and new demolition controls. Throughout various ministries, there is a growing mood that the time is ripe for a comprehensive new initiative - not only for the sake of heritage, but also to capitalize on a variety of other economic and social opportunities which are demonstrably achievable at the same time.

The economic and social track record of such initiatives, from other jurisdictions, is also at Ontario's disposal. In due course, this should not only bolster the case for innovation, but also reassure the private sector that these initiatives are consistent with its own long-term interests. Indeed, it should be possible to predict (with some accuracy) how a new heritage package will benefit a wide variety of public and private goals.

In short, a new initiative on the heritage front need not give rise to a host of political and economic uncertainties. On the contrary, Ontario may be pleasantly surprised, and learn that the right package actually can bring developers and conservationists together—in a way that fulfills the optimistic predictions arising from economic research elsewhere. In due course, Ontario may realize that the most rewarding discovery about a new heritage package is that it accomplishes exactly what the pundits have said it would; or, to put it another way, that once again the best surprise is no surprise. □

ICOMOS CANADA Update

by Judy Oberlander

The first national conference of ICOMOS CANADA was held in Ottawa on November 2-3, 1985 and it resulted in a most enthusiastic response from all attendees. Organized around a central theme "The Professional Practice of Preservation," the two day meeting provided the opportunity to discuss in depth a wide variety of topics and to explore various ways of exchanging information and expertise in the preservation field. The meeting was organized by Alain Lafreniere, Claude Moulin, Renee Leblanc, Herb Stovel, Francois Leblanc, Jacques Dalibard and various ICOMOS CANADA board members and was attended by seventy people from across Canada.

ICOMOS CANADA which is a National Committee of the International Council on Monuments and Sites, is one of the organizations which represents Canadian preservation interests abroad. ICOMOS itself is "an international non-governmental organization bringing together people and institutions actively concerned with the conservation of buildings, groups of buildings and larger units of archaeological and historical interest." The ICOMOS headquarters are in Paris where the Secretariat and Documentation Centre are located and it is guided by a Secretary General, President, Treasurer General and Executive Committee whose members live around the world. A General Assembly is held every three years with the next meeting being held in Washington, D.C. in May 1987. These meetings provide an opportunity for members of the National Committees and the International Specialized Committees to present papers and to discuss topics of common interest.

The Ottawa meeting had three main parts; a panel discussion, a series of workshops and a general assembly. This programme permitted discussions in both large and small groups as well as an opportunity to focus on specific issues related to the preservation movement in Canada. The panel was composed of Julia Gersovitz, an architect in private practice, Jacques Dalibard, Executive Director of the Heritage Canada Foundation, Linda Fardin, a landscape architect with Parks Canada and Phil Wright an archaeologist with the Ontario Ministry of Citizenship and Culture. Following a short presentation by each member of the panel on the theme, "Professional Practice of Preservation" there was a general discussion with the audience. Discussions centered around the topics

of preservation as a profession, professional accreditation and the different experiences of working in the private and public sectors.

The afternoon workshops were organized around the subjects of the ICOMOS International Specialized Committees and were chaired as follows: Julian Smith - Doctrine; Robin Letillier-Recording and Documentation; Walter Jamieson - Historic Towns; Claude Moulin-Cultural Tourism; Herb Stovel-Vernacular Architecture and Marc Denhez-Heritage Legislation. National Committees have been established for each subject and if you are interested in a particular committee you are requested to write to the session chairs listed above at the ICOMOS office in Ottawa.

The closing session of the conference consisted of a series of reports by the President of ICOMOS CANADA, Jacques Dalibard, the Secretary-Treasurer, Francois Leblanc, the chairman of the English-Speaking Committee, Herb Stovel and the chairman of the French-Speaking Committee.

A closing discussion centered around the topic of "professional" and the question of professional accreditation. Is this a desirable option for people presently involved in some aspect of the preservation movement? What constitutes a "professional?" These are some of the questions which came up for discussion and will undoubtedly be debated for sometime. This meeting gave everyone a great deal to think about both within their own discipline and how it relates to the larger context of the preservation movement in Canada.

If you are interested in becoming a member of ICOMOS CANADA or participating in one of the specialized committees please write to: ICOMOS CANADA, Box 737, Stn. B, Ottawa, K1P 5R4. □

Report From Saskatchewan

by Stuart Lazear

Since the adoption of Saskatchewan's Heritage Property Act in 1981 there have been 224 municipal heritage designations and 22 provincial heritage designations across the province. An additional 150 properties are in the process of being designated. A total of 1.7 million dollars has been provided over the past four years by the Province of Saskatchewan to owners of designated municipal and provincial heritage properties and heritage organizations. These funds have been allocated on a matching basis for the purposes of restoration rehabilitation and stabilization of properties through the Provincial, Municipal and General Heritage Grant Programs of Saskatchewan Culture and Recreation. The average grant to an owner of a municipally-designated heritage property would be between \$1,000 and \$5,000 in 1985. A provincially designated property could receive up to \$100,000 over 5 years. The great success of this program has increased demands on the existing provincial grant allocation which has remained constant over the past few years. The individual grants have therefore been reduced each year. The success of the grant program and the enthusiasm over Heritage Year in Saskatchewan in 1985 will hopefully encourage increased provincial grant allocations.

For further information on the grant programmes please contact Dean Clark or Frank Korremaker, 3rd Floor Ratner Building, 1942 Hamilton Street, Regina, Sask. S4P 3V7 (306) 787-2809.

As is often the case with provincially-funded grant programmes, the greatest success is achieved in smaller communities and rural areas. The absence of development pressures present in larger urban centres, combined with a strong appreciation of the community's heritage often makes municipal heritage designation and a municipal heritage property grant attractive preservation options. Saskatchewan's largest centres, Regina and Saskatoon are fortunate in that they have buildings which were built for or bought by the Government of Saskatchewan and its agencies. These government office and educational buildings are protected through provincial designation, through continued use and/or through community pressure.

The combined benefit of government ownership and the Provincial Heritage Property Grant was seen in the recent sale of the Canada Life Assurance Building (also known as the Saskatchewan Government Insurance Office Building) to Silver Developments of Regina. The office building was a provincially-owned, provincially-designated heritage property which stood vacant for several years in Regina's downtown core. It is one of the province's most significant early 20th century commercial office buildings. It was designed by the architectural firm of Brown & Vallance using terra-cotta on the facade.

Many factors combined to make this pioneering renovation/restoration work.

1. The Government of Saskatchewan sold the building at a bargain price below market value.
2. The developer, Mark Silver, was sophisticated. He had seen that