

(T)

E. H. H.

(1949) Department.

MS SERIES.

G.O. NO.

1086. Edu.

Dated

11-4-49.

closed
JB

O. H. R. S.

11-1-88 } copy
11-2-108 } 407
11-2-108 }

[Despatch Abstract.]

Indian Historical Records Commission
— Research and Publication
Committee — 12th Meeting — Resolution IV
— Principle of partitioning of
records — Papers recorded.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

No. F.17-2/48.A.2.
Government of India,
Ministry of Education,

New Delhi 3, the 23rd. November 1948.

From

Ram Lal, Esquire, M.A.,
Under Secretary to the Government of India.

To

The Secretary to the Government of Madras,
Education Department,
MADRAS.

INDIAN HISTORICAL RECORDS COMMISSION - RESEARCH
AND PUBLICATION COMMITTEE - 12TH MEETING -
JULY '48 - RESOLUTION IV - PRINCIPLE OF
PARTITIONING OF RECORDS - ADOPTION OF INTERNATIONAL
PRACTICE IN THE APPROPRIATION BY OR ALLOTMENT
OF RECORDS TO SECEDING TERRITORIES.

Sir,

I am directed to forward herewith for information
and guidance a copy of Resolution IV (together with enclosure)
passed by the Research and Publications Committee of the
Indian Historical Records Commission at its 12th meeting
held in July '48 at New Delhi on the subject noted above.

Yours faithfully,



Ram
(Ram Lal)
Under Secretary.

E. J. P. H.

Emdt. No. 88449-1C, Edu. C, dated, 6-12-48.
Referred
Communicated to the director,

M. R. O. * for *renewal*.

29/11/48

29

The director,

M. R. O.,

Chittoor.

(with copy of d. 7)

3
Extracts from the Proceedings of the Twelfth meeting
of the Research and Publication Committee held on the
10th July, 1948 at New Delhi.

Resolution :- IV - Resolved that the provincial Governments be
requested to follow the international practice in the appropriation
by or allotment of records to seceding territories.

A
A note containing the international practice
is appended

pp. 5-8 infra

INTERNATIONAL PRACTICE ON THE EFFECT
OF CHANGE OF SOVEREIGNTY ON RECORDS.

.....

The effect of change of sovereignty on records has been well illustrated by events of history of Europe and America and the international practice in this respect had been more or less uniform everywhere. The opinions of eminent archival authorities may be mentioned here with advantage. Dr. Posner, the famous international authority in archives keeping is of the opinion that when border districts are involved in a change of sovereignty, the acquiring state should have a good title to the archives found in the ceded territory itself, but that the central repositories should not be broken up and that the files of the Central Agencies should remain untouched. Arguing in favour of this opinion he observes, "While a picture that is taken from the walls of a museum has never been an integral part of the collection to which it belonged and will have the same value whether it hangs in Vienna or in Prague, records that are torn from the body of which they are an organic part lose in value and meaning". Messrs Muller Feith and Fruin, the Dutch Archivists whose Manual "For the Arrangements of Archives" is regarded as the Bible of the archivists, similarly observe that an archival collection is an organic whole which cannot be torn apart, and that in case an administrative authority or a political body was abolished the archival holdings of the former should be kept in the depository of that among the successor bodies to which most of the rights and most of the functions had passed, but be made available for consultation by all.

DISMEMBERMENT INDEFENSIBLE ON
PRACTICAL GROUNDS.

.....

This view does not owe its origin to any pedantic veneration for a pet theory. It is based on practical considerations. The arrangements of the documents in an archival collection corresponds to the order in which the business they record were disposed of by the administrative body concerned. They are thus integrally related and throw light on one another. Thus the minutes, resolutions and correspondence of an administrative body are just as instructive and as valuable as the accounts and receipts for acquainting us with the administration of a property or the transaction of a business. The dismemberment of an archival series therefore makes the complete study of the history of a property or a transaction impossible. There are moreover a large mass of records which do not admit of any physical division, e.g. records dealing with affairs of more than one regions, records bound in volumes, etc.

The two principles which have helped to shape the archive policy of civilised nations for last two hundred years are the principle of respect des fonds and the principle of provenance. According to the first which literally means veneration of "found" archival arrangement has to be preserved at all cost. The second enjoins that no records are to be torn away from the place in which they were originally found. These principles have been again and again emphasised in the authoritative pronouncement of such expert bodies as International Congress of Historical Sciences, British Records Association, Netherlands Association of the Archivists, American Historical Association and Society of American Archivists, have been given wide recognition in the public records legislations of a civilised Governments of Europe and America, and have on numerous occasions appealed to, and often successfully, to combat attempts at archival amputations. In the Netherlands for instance the rule is that when an administrative body inherits the functions of another no part of the archives of the latter are to be transferred to the former unless the bequeathing body has been completely abolished and all its functions and rights have passed to its successor. In the latter case the archival assets of the dead body should be transferred

--(2)--

to the successor body in their entirety. But when the rights of functions of a body have passed to several bodies, the archival collection of the former are not to be split up under any circumstances but should be transferred in its entirety to only one of the successors preferably to the one inheriting the most of the rights or most of the functions. About the same principle has been recognised in the public records legislation of France, England, U.S.A., U.S.R. and the Union of South Africa.

It will appear from the above that all are unanimous in holding that "the distribution of an archival collection among different depositories must strictly be avoided". The same view has been expressed by the famous Italian archivist Eugenio Casanova in his articles entitled archives in International treaties and Archival Revendications from Austria contributed respectively to ARCHIVI ITALIANI (1918 and 1921) and the Polish archivist Joseph Siemionski in his paper on "Respect of fonds its international application" contributed to the 8th International Congress of Historical Sciences held in Zurich in 1938. The principle involved is not difficult to understand. If a territory or a part of it is ceded to or annexed by another state or a new sovereignty is substituted in a territory for the former one such archival collections found in the territory thus affected as may relate to the regional administration become the property of the successor state. But the latter has no title to the archives outside the territory so acquired even though they may include documents pertaining to the administration of the ceded region. Although the principle did not receive formal recognition in any international treaty till the middle of the 19th century, in practice civilised governments have been following it from as far back a time as the 17th century. When, for example, as a result of the revolt of the Netherlands against Spain, the bond which had united Holland and Zealand under the rule of a count was completely broken, the administrative bodies and officials in Holland remained in possession of the common archives of both. When again under the peace of Utrecht (1715) the Duchy of upper Gelderland was divided among Austria Prussia and the Netherlands, its archival collection was kept intact in Roermonde in the Austrian portion. Each of the successor states received a copy of the inventory, and each of them was invested with the right to ask for copies of all the documents needed.

Not that there have been deviations from the practice but such exceptions only prove the rule that dismemberment of records is fraught with a number of technical difficulties. When Poland was partitioned for the third time, it was agreed that each of the partitioning powers should obtain the portion of the Polish archives that pertained to its share of the territory. The partition was carried out with the greatest strictness and rigour. It was applied not only to the unbound papers even bound books were torn into pieces to make the division as complete as possible. But very soon Prussia, one of the partitioning power was to experience the dangerous consequences of insisting on a wholesale disintegration of archives. She lost not of her former Polish possessions by terms of the Treaty of Tilsit that stipulated the delivery to the new grant Duchy of Warsaw of "all archives containing the titles of ownership, documents and papers in general whatsoever relating to countries territories domains estates that H.M. the King of Prussia has ceded under the present treaty". How painstaking and time consuming a task wholesale division of records is bound to become is exemplified by the case of Prussia vs. Saxony. At the Congress of Vienna Prussia claimed all the record materials relating to territory ceded to her by Saxony. The task involved the delivery of thousands of files dating back to the seventeenth century and the work had not finished when in 1866 war between Prussia and Saxony made its continuation impossible.

Another case of wholesale extradition of records did not have any better results. When in 1831 Belgium seceded from the Kingdom

--(3)--

of the Netherlands, all the archives, maps and plans belonging to her territory and concerning its administration were demanded by the former. It took about six years to complete the arrangement for the requisite transfer and no sooner had the file been received at the Brussels repository than they became dormant. Being a mass of unrelated and disarranged documents they were absolutely worthless as pieces of evidence. Moreover without the indexes and other finding mediums which had to be retained at the Hague they continued to be inaccessible to scholars and administrators alike. 85 years later R. Fruin the Dutch archivist found them in the same state of disorder at the Brussels archives.

It will be clear from the above examples that division of archives not only harms the transferring power but does not confer any benefit on the acquiring state. The Prussian and Belgian experiences set diplomats and administrators thinking and about the middle of the 19th century began to prevail a more rational view of the whole question. This will be apparent from the peace treaty of Vienna concluded between Austria and Prussia in 1866. It gave to Italy the archives of the ceded territories the documents concerning their administrations and the documents of the Republic of Venice which had been removed to Vienna. Both parties furthermore promised to allow authentic copies to be taken of historical and political documents, "which may interest the territories remaining respectively in the possession of other contracting power and which, in the interest of scholarship cannot be taken away from the archives to which they belong". This provision undoubtedly marks a turning point in the treatment of the problem under consideration. It illustrates the first conscious application of the principles of respect des fonds in the sphere of international law, and it has had a lasting influence in International conduct. This is specially exemplified by Art. 3 of the treaty of Frankfurt between France, Germany and Art 18 of the additional convention of Frankfurt. Under these articles Germany received the three archival depots of Colmar, Strasbourg and Metz situated in the ceded territory as also such local records concerning the civil, military and judicial administration of the ceded region as had been removed by France to depositories outside the area. Since some districts of the three ceded departments of Haut-Rhin, Bas-Rhin and Moselle remained with France and the arrondissements of Sarrebourg and Chateau-Salins fell to Germany it was further decided that the records concerning the localities that had been detached from their former administrative centres and which were preserved in the archives of the seats of department or arrondissement on which they formally depended should be reciprocally delivered. It will be thus seen that only the records of the prefectorial and sub-prefectorial administration were involved in the extradition.

The solution offered by the Treaty of Frankfurt satisfied the legitimate needs of both parties. It gave to the acquirer the archives repositories of Alsace-Lorraine and the papers needed for administrative purposes. It left untouched the Central Records of the cessionary and historical fonds outside the cession. When Louis Jacob, the famous French Jurist raised in 1915 the question of what should be asked from Germany in the case of the recovery of the two provinces, he observed that France could not claim more than she herself had ceded in 1871. The same considerations must have influenced the Allied and Associated powers when in 1919 they literally took over the Article 3 of the Treaty of Frankfurt into the different peace instruments. On the basis of articles 38 and 52 of the Treaty of Versailles, the extradition of records from Germany to France and Belgium was carried out without any friction whatsoever. Poland of course endeavoured to put the widest possible construction on the archival clauses of the treaty and to get hold of all materials relating to that part of her territory that was formerly German including those of the Central Archives in Berlin. But the German exports succeeded in parrying these claims by appealing to the

- (4) :-

principle of Provenance. Effective use was made of the same principle by U.S.S.R. in baffling the attempts of the Polish Government to obtain all records pertaining to Poland deposited in St. Petersburg. The archival clauses of the Treaty of St. Germain are practically a repetition of the corresponding articles of the Treaties of Frankfurt and Versailles. Under these Austria had to deliver to the successor States all regional archives pertaining to the administration of the ceded territory. Besides that Austria was to relinquish to them all the fonds of a historical character that since the seventeenth century had been removed to Vienna. But the archives of the Central Administration remained untouched.

EXAMPLES FROM THE EAST.

This Survey would be incomplete without a brief indication of what have been the effects of territorial changes on the archives in the East. When the administration of Ceylon was separated from India no division took place of the archives at Fort William relating to Ceylon. When Burma was separated from India no portion of the archives in the repositories of the Government of India was transferred to her. Nor were any records in the same repositories claimed on behalf of Malaya or Java when separate administration were constituted in those regions. The principle therefor seems to be firmly established that in case of a change in sovereignty acquiring state has title to the archives found in the territory ceded to it but as regards the records in the Central repositories of the ceding power it has the right than a right of consultation.

Punn/18-XI/

From
Rao Bahadur
Dr. B.S. Baliga, Ph.D. (Lond.),
Curator, Madras Record Office,
CHITTOOR.

To
The Secretary to Government,
Education and Public Health
Department,
Fort St. George.

No. 2920-D-VII/48-1, dated 13th December 1948.

Sir,

Sub:- Indian Historical Records Commission - Research and Publication Committee - 12th meeting - July 1948 - Resolution IV - Principle of partitioning of records - Adoption of international practice in the appropriation by or allotment of records to seceding territories.

94602
p. 1 ante

Ref:- Government Endorsement No. 88449-1 C2., Education., dated 6th December 1948.

I have already indicated the implications of this Resolution in paragraph 7 of my letter No. 977-D-VII/48-5 dated 17th July 1948. Its object is to advise the Provincial Governments not to partition their central archives whenever any new provinces are formed out of their territories. It is explained that, according to international law, the parent Province ought to keep intact in its own custody all the central archives, though some of them might relate, or contain information relating to the new Province; and that the new province can claim only a right of consultation. The only records which would pass into the custody of the new Province are stated to be the records found in the districts actually transferred to it. How this position has been established by international law is explained in the note accompanying the resolution and a fuller account of the law is found in an article written by Dr. Ernst Posner in the 1947 July issue of the "Indian Archives".

2. This law was applied when Pakistan was formed, the Indian Government retaining all the original collection of records intact and agreeing to supply to the Pakistan Government only copies of such of the records as pertained to Pakistan. This principle was not however applied when the Orissa Province was formed in 1936, but it will have to be applied if, for instance, the Andhra Province is formed. It is strictly in accordance with the fundamentals of archive administration

which

From the Govt. of India, Ministry of Education
No.F-17-2/48.A.2., dated 23-11-48.
From the Curator, M.R.O., No.2920-D-VII/48-1 dated
13-12-'48.

I.H.R.C.--Research and Publication Committee -
12th Meeting - July 1948 - Resolution IV - Principle
of partitioning of records of international practice
in the Adoption appropriation by or allotment of
records to seceding territories.

In the meeting of the Research and Publication
Committee held on the 10th July 1948 the following
resolutions was passed.

Resolution:- IV - "Resolved that the provincial Govern-
ments be requested to follow the international prac-
tice in the appropriation by or allotment of records
to seceding territories"

In the concluding portion of the note on the
International practice on the effect of change of
Sovereignty on Records it is stated that the "Princi-
ple therefore seems to be firmly established that in
case of a change in sovereignty acquiring state has
title to the archives found in the territory ceded to
it but as regards the records in the Central reposi-
tories of the ceding power it has no other right than
a right of consultation."

The Curator has explained the position in his
remarks on pp.9 & 10 c.f. and states that the resolu-
tion will have to be borne in mind when the question
of the formation of new provinces is considered. He
also states that the Public Dept. which is likely to
be the Dept. to deal with the question of the forma-
tion of new Provinces may be requested to note this.

The file may be sent to Public before circulation.

which lay down that all archives collections should be preserved
intact, that no records should be torn from their context as such
tearing affects the authenticity and the legal value of the records
besides making them quite unsatisfactory for purposes of administration
and historical research. It is also based on practical experience,
it being impossible to separate from the original volumes and files
the papers relating to any new province that might be formed.

3. The resolution will, therefore, have to be borne in mind
when the question of the formation of new provinces is considered.
If there is no objection, the Public Department, which is likely
to be the Department to deal with the question of the formation of
new provinces, may be requested to note this.

Yours faithfully,

W. H. H. H.
CURATOR.
15-12-1948.

BR.

R.M.
15-12-48

E. & P. H. C. No.
88449-20

28-1-49



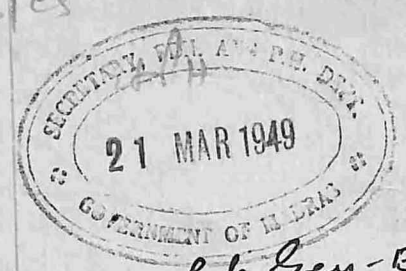
Pub (Genl-3) Dept
and have 3 on h. 10 of
The note of E. & P. H. C. above maybe

perused. S.H.H. Deptt may be requested to send the file to this Deptt after orders in circulation (including H.Pr.) are passed for taking relevant extracts. The file may be returned to S.H.H. Deptt.

8.2.49

9.2.49

C. No. 88449C2/49



Pub Gen-B
no: 207/49-1
9.2.49

E.H.H.
C2



Please see the note of this Deptt. overleaf and the note of Public Deptt. above. The file may now be circulated to H.H. (Edu) and H.Pr. ~~for perusal~~

17/2/49

For perusal of the notes on pages 1-2 above.

ISA
27.2.49

G.P.R
20/3

On 24/2

With reference to the note at X above, the file may be sent to Public (General) Deptt. w.o.

23/3/49

24/3/49

Public (General)

4 APR 1949

Pub (Ser-C) Deptt

Necessary extracts have been taken in this Deptt. The file may be returned to S.H.H.

E.H.H. W.O. No.
88449/48-39
26-3-49



E.H.H.
C2 26212

Pub (Ser C) W.O. 904/49-1
24.4.49

1.4.49

2/4/49

The papers may be recorded for future reference.

14/4/49

2/4/49

Abstract.

Order 1086. Edu, dt., 11-4-49.
H.S.

Indian Historical
Records Commission -
Research and Publication
Committee - 12th Meeting
- Resolution IV -
Principle of partitioning
of records - Papers
recorded.

