

Historic Places Act: Canada Needs A Binding Law!

by Christopher Wiebe

Low and picturesque, the clapboard and gables of the Officers' Mess and Quarters had loomed out of the wind-twisted conifers on Work Point in Esquimalt, British Columbia, since 1888. It sat on a promontory that constricts the narrow throat of Victoria Harbour's entrance. "From the water it really was an iconic building as you sailed into the harbour," said Martin Segger, an architectural historian at the University of Victoria. "It was a powerful symbol of federal presence."

Indeed, looking back, it was built for that very reason. The construction of an army base on Vancouver Island was, after the construction of a transcontinental railroad, the second most important condition of British Columbia's entry into Confederation in 1871. The Officers' Mess and Quarters was the finest part of a complex of buildings (now part of CFB Esquimalt) meant to house the first wholly Canadian armed force on the West Coast, a bulwark against expansionist American and Russian designs.

The end game for the Mess and Quarters began in 2001, when a demolition contract was tendered by the Department of National Defence (DND). Colin MacLock, local artist and heritage activist, sounded the alarm. He and others, including architect John Keay, spearheaded a proposal to adaptively reuse the building as art studios: the Work Point Arts Centre Project. In a city notorious for little space and high rents, said Keay, the Mess and Quarters was perfect for artists—studios in the small rooms upstairs, a gallery in the main floor Mess. "The building was well built and perfectly sound. The heating had recently been upgraded and it complied with current seismic standards. All it needed was a paint job and a sprinkler system."

The project board lobbied the various levels of government and the base commander. After promising beginnings, the commander quickly cooled to the idea, squelching an attempt to nominate all of Work Point as a national historic site. The Mess and Quarters became tangled in politics. Some suggest the Canadian Navy had little sentimentality for a site with roots in army history. Others, that the Esquimalt city council was not heritage friendly, and hence local MP David Anderson (then environment minister) was unwilling to push hard for protection.

A municipal election returned a more heritage-sensitive council, but by then the municipal letters from Esquimalt and Victoria sent in the spring of 2006 in support of the Mess and Quarters fell on deaf ears. Gordon O'Connor, the new minister of National Defence, refused to intervene.

It is maddening to think that the situation had reached this point. Why the need for scrambling in a federal process that should be characterized by forethought? The Mess and Quarters was so historically significant that its protection shouldn't have been left to local vigilance and lobbying—it should have spoken for itself, in a language federal bodies were capable of understanding.

And so, in the end, the Department of National Defence ordered a methodical "deconstruction" (demolition with bits removed for recycling) of the Mess and Quarters. It began coming down in the last week of June 2006.

To add irony to frustration, a few days later the Historic Sites and Monuments Board of Canada unveiled one of its red and bronze plaques on another part of CFB Esquimalt (Naden, the old British Royal Navy base) a few kilometres from the Work Point demolition site. Here, as so often happens in Canada, the graceful gesture of commemoration seems to take precedence over genuine protection.

"The barracks weren't in the way of anything from an operational perspective at the base, and plans to reuse the site have never been floated," said Donald Luxton, an architectural historian and author of a historical assessment of Work Point. "It's a mandate issue, pure and simple. DND has no mandate to preserve heritage."

The Government of Canada, however, does have this mandate. And what the troubling circumstances surrounding Work Point underscore is that policies now in place to protect the heritage buildings it owns are flawed and inadequate. They leave many significant places unacknowledged and unprotected. Even those sites that are formally recognized come under policies that are unevenly applied and non-binding.

What's more, these policies are too circumscribed in their vision. Presently, they only oversee how the federal government handles its own property. A broader vision needs to be entrenched alongside rejuvenated protection of federal buildings, one that takes into account how historic buildings in Canadian communities may be jeopardized by federal actions, projects, and investments.

A dramatic case in point is the demolition of Winnipeg's Eaton's Department Store building, a 1904 landmark, in February 2003 to make way for a \$125-million sports and entertainment complex. The developer, True North, secured \$12 million from the federal government for the project despite a massive local campaign to save the Eaton's building.

In the end, these problems can only be effectively addressed through legislation. Canada is the only G-8 country without laws to protect heritage buildings, sites or engineering works owned by its national government. The United States, for one, is 40 years ahead of us. Rooted in the Historic Preservation Act of 1966, is a robust system of legislation which compels all federal agencies to take into account the effect of projects on the nearly 79,000 buildings on the National Register of Historic Places. Moreover, the Act dovetails with progressive tax legislation that has greatly encouraged designation and rehabilitation.

Events at Work Point, along with a host of other incidents, show that the Canadian government gravely needs to champion a similar kind of comprehensive legislation that will hold federal departments, crown corporations, federal agencies and their employees accountable for the treatment of historic places in the custody and control of the federal government.

What legislation of this kind would mean is that the conservation of designated heritage sites would be based on statute, and not left to the whim of policies and process, or the vagaries of funding and personalities. It would show heritage protection to be a serious pursuit, not a frill or inconvenient procedural hurdle.

Where is national pride and civic engagement in a federal process that continually discounts its cultural symbols? The federal government needs to show the same kind of commitment and leadership it has ably demonstrated over the years in other aspects of policy. Employment equity, bilingual services, workplace standards—these are just a few examples of how Canada is perfectly capable of imposing a nation-wide system that holds its own employees accountable while helping to foster culture change in the private sector.

Canada already has federal heritage legislation but it is very limited in scope. Spurred by the recommendations of the 1951 Massey Commission, the Historic Sites and Monuments Act of 1953 gave the federal government the power to "commemorate" sites deemed of national significance, although unless it owned these sites actual "protection" remained a provincial matter.

The *Heritage Railway Stations Protection Act* of 1988, given unlikely birth by a private member's bill, brings some protection for this select group of buildings. The *Heritage Lighthouse Protection Act*, modelled on the railway act, was tabled in the Senate in 2000 but died on the House of Commons' order paper in January 2006. It was reintroduced as a private member's bill in May.

Regrettably, new historic places legislation, poised to remedy many of the heritage policy deficiencies at the federal level, has never gone beyond the discussion paper stage. "Towards a New Act Protecting Canada's Historic Places," circulated in 2002, gave some inkling as to what such an act might look like. In short, it would provide strong protection for heritage buildings (even to those beyond present scrutiny that are owned by crowns and agencies), would ensure they were properly maintained, and would commit the

government to following the *Standards and Guidelines for the Conservation of Historic Places in Canada* developed in 2003.

In the meantime, the main instrument for protection of federal heritage properties is the Treasury Board Heritage Building Policy, administered by the Federal Heritage Buildings Review Office (FHBRO). Created in 1982 in response to the controversial “reconstruction” of the Royal Canadian Mint in Ottawa, FHBRO was charged with assessing the historical and architectural values of federal buildings and, on the basis of this research, with providing professional oversight and advice to federal departments, crown corporations and agencies.

It has, in the intervening years, evaluated around 9,000 of the federal government’s 57,104 buildings in detailed reports with three main components: historical associations, architecture, and environment (its site, setting, and landmark value). It also “scores” each building out of 100: those scoring between 75-100 points are “classified”; 50-74 are “recognized”; and below that, they are deemed to be of no heritage significance. Around two percent of federal totals, or 1,046 buildings, have received “recognized” status and only 265, including the Parliament Buildings and Supreme Court, are “classified.”

Unfortunately, one of the flaws of the Treasury Board policy is that all buildings are gauged by the same template—the Parliament Buildings alongside a barn at the Experimental Farm in Indian Head, Saskatchewan. What’s more, as Work Point advocates discovered, FHBRO has no mechanism to update its evaluation reports after new historical information is found, and provides few opportunities for public consultation on the local value of buildings. It is an extremely inward-oriented process.

Over the past 25 years, FHBRO has done much excellent work to underscore the value of many overlooked structures owned by the government and to shield others from unsympathetic modifications. However, a glance at the growing list of heritage buildings demolished since the program’s inauguration—3 classified and 51 recognized—quickly dampens enthusiasm.

The Department of National Defence, with 20,556 buildings in its care, seems to have been particularly keen to wield the wrecking ball. CFB Borden, north of Toronto, the birthplace of the Canadian Air Force, now has only 8 of its original 17 WWI-era hangars left, despite FHBRO scrutiny and its identification as a national historic site.

What these demolitions show is that, grounded in a deficient policy and a limiting process, as opposed to a binding statute, FHBRO’s narrow mandate to “advise” gives it no teeth to compel anyone to heed its advice. And so, while federal departments are technically the mere custodians of the buildings they occupy (real ownership rests with Treasury Board and the people of Canada), they make the final decisions about the major modification or outright disposal of buildings. At the present time, anything could be demolished—it’s just a matter of process. Astonishingly, crown corporations and some agencies have no obligation to the Treasury Board policy at all; they are “encouraged” to solicit FHBRO’s advice, though few do, even though they control significant numbers of heritage buildings.

Canada Post Corporation, for instance, has 2,417 buildings, and those that are likely to merit federal heritage designation are unlikely to be treated favourably in the current corporate atmosphere. A Canada Post employee said in conversation that old post office buildings are a “headache” because “they draw too much local pressure.” Unremarkable buildings, it seems, are easier to manage.

Even “classified” buildings can be liquidated at department fiat, with seemingly few controls. Rick Goodacre, president of the Heritage Society of B.C., points to the speedy 1998 demolition of the 1894 Pacific Coast Cannery in Steveston, B.C., by the Department of Fisheries and Oceans (DFO). The department purchased the cannery in 1984 but didn’t maintain it despite its “classified” status. DFO had the building condemned, obtained a federal demolition order on a Friday and by early Monday it was coming down. “It was a clandestine demolition, a very cynical act,” said Mr. Goodacre. “DFO even hired a public relations firm to spin the demolition on site.”

The cannery's fate highlights the uncomfortable fact that Treasury Board policy for heritage buildings currently contains no maintenance requirements. In this twilight, many historic buildings are being "passively" demolished through neglect.

Barry MacDonald, president of the Nova Scotia Lighthouse Protection Society (NSLPS), points to the treatment of the Sambro Island Light station complex near Halifax as a particularly graphic example. It includes a stone and concrete tower built in 1758—the oldest operating lighthouse in North America—along with other significant structures and remains, one of which is the Gas House, where acetylene gas was manufactured to power the light in the early 20th century.

The FHBRO report states that the complex "illustrates a good portion of historical lighthouse practice in Canada." The lighthouse was restored by DFO in the early 1990s.

It is a lucky exception, as only 22 of Canada's 583 lighthouses are "classified" and many, like the Southwest Point Lighthouse on Anticosti Island, Quebec, are falling into ruin. Mr. MacDonald said that on Sambro DFO has not maintained the Gas House because it does not have a navigational purpose, merely a historical one. The NSLPS has struggled to do basic upkeep on the crumbling building over the past decade with volunteer labour and supplies.

While current federal heritage policies are flawed, it is often more systemic problems like blinkered logic that dooms buildings. Andrew Powter, a recently retired heritage architect in Public Works, points to the Sir John Carling Building on Ottawa's Central Experimental Farm. An elegant 40-year-old office block designed by Hart Massey, its pre-cast concrete panels are deteriorating and its interior contains asbestos. Most of the landmark building is now threatened with demolition despite a FHBRO score of 62. "All discussions proceeded from the premise that the building was gone," he said. "The demolition option was never questioned."

Mr. Powter, an expert on embodied energy and the sustainability issues surrounding old buildings, says the Carling Building "could have been a flagship federal project for how to rehabilitate aging high-rise buildings" that dot Canada's urban landscape.

The federal government could emphatically demonstrate its commitment to heritage by locating more of its government offices in heritage buildings. A "heritage first policy" would see historic buildings given priority when departments are looking for more office space. Sandy Smallwood, an Ottawa developer of heritage buildings, said creating commercial demand for heritage properties would build on legal protection and make retrofitting of old buildings enticing to private industry. "Why don't they ensure that, say, 10 or 15 percent of their office space is in heritage buildings?" he asked. "They should put their money where their mouth is and lead by example."

Back in Victoria, John Keay remains frustrated. "I've been involved with heritage buildings for years and Work Point was the worst experience I've ever had—DND kept changing the goal-posts, and there was a lack of a coherent policy around heritage."

The crafting, debate, and enactment of new laws protecting federal heritage buildings would send a very strong message. It would not only encourage provincial and municipal governments to similarly scrutinize how they treat their own buildings, but would resonate with the private sector and the public at large. Rick Goodacre says it would help address public perceptions of federal heavy-handedness and impunity: "If Work Point had been owned by a municipal or provincial government they would have discussed alternatives, held community roundtables, tried to deal with the barracks in the context of heritage planning. The federal government, on the other hand, did nothing of the sort. It thinks it can do anything and that there are no consequences."

The new Conservative government has articulated its interest in accountability and transparency. Support for a "Canada Historic Places Act" could be a true hallmark for them, ensuring public consultation and helping to protect those places Canadians cherish.

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Editor's Note: To read the Heritage Canada Foundation's position paper on the need for federal legislation visit our website at www.heritagecanada.org