

THE FUTURE OF MONETARY ARCHIVAL APPRAISAL IN CANADA

Conference 2007

*October 22-23, 2007
Delta Ottawa Hotel
Ottawa, Ontario*

NAAB
NATIONAL ARCHIVAL APPRAISAL BOARD



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CONSEIL NATIONAL D'ÉVALUATION DES ARCHIVES

CONFERENCE PROCEEDINGS

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INTRODUCTION (*Elwood Jones*)

The conference on “The Future of Monetary Archival Appraisal in Canada” was welcomed on many sides. The Canadian government has encouraged donations in kind of cultural property since the late 1960’s, and from the outset archival materials were included. The Canadian Revenue Agency, and its predecessors, wanted a system that met certain litmus tests. Library and Archives Canada, formerly the Public Archives of Canada, was quick to see the advantage of giving tax credits for donations to archival institutions. The Canadian Cultural Property Export Review Board (CCPERB) helped ensure rigid standards, and over the years it has become more independent and more confident. Archival institutions have valued the system that stretches their acquisition budgets while also encouraging people to donate archival materials to institutions. Archivists have been encouraged that the general public is more aware of the value of archival materials. This conference was sponsored and supported by several agencies committed to the view that archives are strengthened when we have a well-informed body of appraisers.

The National Archival Appraisal Board was formed in 1976, but the principles were defined in the six or seven years preceding. Robert Gordon, at the Public Archives of Canada, was quick to see the potential of the new taxation system. He had many discussions with policy people at Revenue Canada and standards were defined, sometimes by reaction to American practices and always by recognition of the philosophical basis for the policies that encouraged donations to public and charitable institutions across the wide heritage field, including archives.

Several principles were defined and worked out with Documents Appraisal Committees of three or four people who would agree on the fair market value of donations. The Canadian Historical Association, and its Archives Section, was the umbrella organization for several years. Those early appraisers-in-training included Bob Gordon, Ian Wilson, Fred Thorpe, Jack P. Heisler and myself. There were several problems to consider. Archival materials are unique by definition, and therefore will not have track records in auction markets, used book stores or price guides. However, there were autograph markets, and some archival materials had sold in the different markets. Gordon took the lead in trying to rank the various factors that influenced monetary value. Fame, availability, links to philately, display value and historical significance were factors affecting market value.

It was also clear that auction values were not automatically reliable even though it was apparent that auctioneers had appraisal strategies that were useful. The concept of fair market value emerged from the early discussions. We knew that sellers hoped that their treasures would be sold in a fashionable market at the height of the auction season and before all the potential buyers madly competing. Estate values were calculated at the opposite end of the scale; how much would treasures receive at an unadvertised sale in New Guinea at the height of the monsoon season. The spirit of the income tax legislation suggested a need to assume that buyers and sellers were well-informed, and under no obligation to accept unreasonable deals. Canada was a huge country, and there were different identifiable markets. Having a team of three appraisers increased the probability that we could consider wide differences knowledgeably. In these early years we consulted with auctioneers, booksellers and others with experience in manuscripts, maps and historical paintings.

When we were confident we organized a conference immediately following the annual meeting of the Learned Societies, which in 1976 were meeting in Quebec City. The founding conference of NAAB was held at Lac Beauport that year, and booksellers, archivists and historians shared the collective experience that led to a well-informed group of archival monetary appraisers. In the subsequent 32 years NAAB has held a conference at Ste-Adèle and conducted various seminars and smaller meetings to discuss pertinent issues. NAAB has been organized in six regions from the outset. There was a separate National region for

appraisals for the federal government in the National Capital Region. The other regions, west to east, are British Columbia and Yukon; the Prairies; Ontario; Quebec; and the Atlantic. Each region has a Director and an Assistant-Director, as well as several appraisers with varied backgrounds. There are archivists, book dealers, scholars and specialists. Some appraisers have done appraisals in several regions. NAAB began as a service to institutions and consequently sought to deliver the services economically. From the outset, fees were based on day rates rather than percentages, and appraisers could not do appraisals in their home institution, or an institution in which they had a close relationship in the past five years.

The monetary appraisal conference held in Ottawa in October 2007 was the most ambitious since 1976. The Canadian Council of Archives, working closely with NAAB, provided the secretariat and expertise for an Ottawa-based conference, and they also networked with Library and Archives Canada, the Canadian Cultural Property Export Review Board, and the Canada Revenue Agency, to ensure broad support. It was also agreed that the conference would provide a record of the conference deliberations that could serve as a touchstone for ongoing education and reference.

The Program Committee worked within the parameters of time and set out to get well-informed people to discuss issues and share experiences. Specifically, we focused on appraisers, and those who had worked with appraisers. We wanted discussion on all the types of materials that are considered archival, including materials that are not strictly unique, such as digital and microfilm materials. We wanted some discussion of the limitations on appraisals, including consideration of the pertinent policies of CCPERB and CRA. We also wanted to draw on diverse experiences. At Lac Beauport we invited keynote speakers from England and the United States. This time, we were confident that the Canadian experience was sufficient.

The Program Committee was a coast-to-coast group with extensive experience with archival policies and monetary appraisals. To make the best use of a tight time frame we opted for three types of sessions. We wanted keynote speakers who would draw attention to the long view. We wanted people who could speak to specific issues related to archival monetary appraisal policies and practical issues encountered in applying a philosophical concept such as fair market value in a real world of donations, markets and archives. As well, we wanted to draw attention to the world in which archival appraisals were made: institutions, federal government and Cultural Property. The third group of sessions was designed to provide hands-on experience from people who had special experience in archives or in appraisals. As our discussion proceeded we realized that some of our thinking about the appraisal of digital materials required special consideration especially given the short track record for such appraisals, and the peculiarities that they lacked, such as uniqueness and tactility, which are usually associated with archival materials. Some sessions were designed to be repeated so that conference goers had choices about how to fashion their experience. For the most part, we wanted people to experience all the philosophical sessions and most hands-on sessions.

These proceedings have been edited to capture the key arguments in every presentation and to eliminate the duplication that emerged. All sessions done in the largest rooms were taped and Raincoast Ventures prepared the preliminary report. The job of the editing was done by the CCA staff and members of the Program Committee then edited the live commentary to ensure that ideas were clearly expressed and were able to be translated into the other conference language. As well, we had to recreate those sessions, such as the hands-on sessions, for which there were no tapes. We relied on the notes of the editor and also sometimes on the summary reports prepared by the conference speakers. We believe that we have reasonably captured the ideas of the conference, although some ideas will appear in slightly different contexts. The chapters have been numbered for readability and do not necessarily match the numbers used in the program. Hence, all the texts were translated into English or French in order to enable all Canadians to benefit from them. The original program is available on the NAAB website with this report.

Marcel Caya, outgoing president of NAAB, gave the opening remarks. He welcomed the delegates and gave a brief history of NAAB and its recent initiatives. Caya also commented on the concept of fair market value, and the difficulties of working in a virtual market as appraisers deal with materials that are kept from the marketplace. The Canadian tax system encouraged private individuals to donate archival material to research institutions. He commented on the complexities of appraising film and digital formats.

David Silcox of Sotheby's talked of the Antiques Roadshow syndrome, and shared his experiences in art appraisals and with the private papers of Pierre Trudeau and of the Hudson's Bay Company. He felt that an annotated publication of NAAB reports would be invaluable to appraisers.

John A. Moldenhauer, a book dealer, commented on his 30 year experience with selling books and appraising archival materials. Many sources used by appraisers need to be treated with caution, and it is always best to know actual sales, and pay close attention to details. Many factors affect value and need to be assessed diligently.

Jim Burant, Library and Archives Canada, discussed issues affecting archival acquisition policies. He noted that Baby Boomers will be wanting to donate career materials, and will want appraisals that reflect their self-estimates of importance. LAC has met demand by instituting a simpler and quicker process of archival appraisals. Normand Laplante, LAC, encouraged monetary appraisers to stay active. He outlined some of the challenges facing institutions: donor pressures; budgetary implications; equitable treatment; and CCPERB.

Carman Carroll, CCA Special Advisor, discussed what institutions needed to do in order to ensure a complete appraisal. He used the categories of the NAAB appraisal report to structure his comments. He gave some detail about the information that appraisers should include in such categories as Description, Significance and Reasoned Justification. Appraisers needed to consider donations in wide contexts before determining current fair market value. In the absence of hard sales figures, reasoned justification becomes more essential.

Ann Rénous, Canada Revenue Agency, discussed the purpose of tax receipts, and the conditions under which they can be issued. She noted some limitations upon institutions, especially if the donor is given benefits in return for the donation. She also cautioned against tax shelter schemes or efforts to give credits that exceed real value. Her comprehensive report also discussed deemed fair market value, inheritances, capital gains, certified cultural property and charities. Certified institutions must keep donations at least ten years.

Pascal LeBlond, Library and Archives Canada, discussed the intricacies of fair market appraisals of philatelic elements. He cautioned about the use of stamp catalogues, drawing attention to a recent court judgment.

Patricia Kennedy, Library and Archives Canada, discussed the intricacies of describing manuscript materials. She discussed the various means available to archivists within institutions making in-house fair market value appraisals or preparing donations for outside monetary appraisal. She gave attention to the various kinds of manuscript documents one might encounter and how to describe them.

Guy Dinel, Laval University, discussed the fair market appraisal of political papers, which usually come from political parties, political organizers, high public officials and members of Parliament. The papers could include papers about their personal life, their non-political careers, and for some, their cabinet experience. The ANQ has a guide suggesting the kinds of records that might be included, and suggests which records would be most important from an archival perspective. Age, rarity and conservation need to be considered. The quality of the fonds might vary by its completeness or the nature of the original

documents. Using examples with which he was familiar, Dinel also offered suggestions on how to value the components of political papers.

Ian E. Wilson, Librarian and Archivist of Canada, commented on the history of NAAB and the important role played by Robert Gordon. He discussed the relation of taxpayers to donations and appraisals and suggested there were challenges for appraisers related to premiers and prime ministers, and audio-visual materials. He also thinks CCPERB should admit that sometimes the whole is worth more than the sum of its parts, and offered the Hudson's Bay Company records as a case in point.

Stephen Lunsford and Leslie Mobbs guided delegates through the various stages of appraising the archives in the making for the Olympics 2010. A major focus was on how archives should deal with digital files and how these might be appraised both archivally and monetarily. They suggested it was nearly impossible to put monetary figures to digital files without a lot of consideration about context, process and uniqueness.

Fred Farrell, of the Provincial Archives of New Brunswick, introduced two speakers familiar with the relationship between archivists and appraisers. Cheryl Avery of the University of Saskatchewan wondered how easily archivists were able to find items in their holdings. Processing was about counts and extent, but also about content, and monetary appraisers should follow the steps of the archivist. Burton Glendenning, a New Brunswick researcher and consultant, thought appraisers needed to know why collections were accepted by institutions. Sometimes archivists have done a lot of research to establish that something is very historically important; the appraiser needs to know that, also. All Christmas cards, for example, are not the same and value could vary by original photos or significant identifications of autograph values. He discussed original order and the sampling of large collections. He also discussed the importance of organizing documents appropriately for the medium.

Sonia Lismer, Canadian Cultural Property Export Review Board, reviewed the history of Cultural Property, and discussed the experiences of the board in the past seven years as it tackled elements of fair market value. The talk was sprinkled with philosophical and practical information. She believed that appraisers need to be more articulate about their assumptions and their rationale for arriving at "estimates" of fair market value.

Marcel Caya presented helpful observations on how appraisers can justify the fair market values that they assign. CCPERB wants appraisers to give sales comparisons that were used in preparing appraisals. However, in archival appraisals one is dealing with unique items or with items that have been sold privately. NAAB also has privacy policies that limit revealing direct comparisons in reports that go to other people and institutions. However, if one cannot provide real prices one must rely on reasonable comparisons. Caya discussed different ways of considering what is comparable. It is also necessary to build up appraisals from single items or series by series, and the reasoned justification could capture this process.

Pamela Cross, a partner in the Borden Ladner Gervais law firm, discussed the pertinent points of the Canadian income tax law. She titled her talk "Donations of In-Kind Property: Tips and Traps." All donations are not equal, and government regulations can vary according to intent. She discussed in some detail the implications of a case of a donor who donated a garage sale find to an institution. CRA challenged if the fair market value was more than what was paid at the garage sale, and the judge found the fair market value was \$50,000 as appraised. Several schemes tried to take advantage of this ruling, but Cross recommended prudence and caution. CRA issued new anti-avoidance rules, particularly related to timing and intent. Institutions need to discount benefits the donors might have received for the gift.

François Côté, a book dealer, brought an impressive collection of books to illustrate his discussion of fair market value in the book trade. He noted that the highest priced book was the one most people wanted. He considered the many elements that affect the fair market value of books and offered ways to research prices. Sometimes the cost of conservation is a factor. Books are valued for their content, aesthetics and age. They are also part of private or public collections. Archival appraisers can learn much from such book dealers.

David Russell and John A. Moldenhauer, who have appraised many large architectural collections, teamed up to discuss considerations related to such appraisals. Russell noted the components that should be present in a complete collection and advised institutions to look for textual records as well as drawings. Institutions should ensure that the appraiser knows all that has been donated even if the specific appraisal is for only the two-dimensional components. Moldenhauer said appraisers like to work from the item level, but archives often describe to the project or file level. He offered suggestions on how to square the circle. He also discussed specific elements, such as photographs or CADs (Computer Assisted Drawings) that might be in the donations.

On short notice, the program committee put together a panel to discuss their individual experiences with large literary collections. Monique Ostiguy suggested ways that appraisers might get the sense of the wide importance of a writer as well as the specifics of their papers. She discussed the differences between receiving collections by purchase and by donation. She also suggested ways that the archivist could highlight important elements of the literary papers that might otherwise be missed by appraisers doing samplings. The archivist normally has a better knowledge of the writer than appraisers, and should share that knowledge. George Brandak, UBC Archives, stressed the importance of complete finding aids. John A. Moldenhauer cautioned against relationships that might blur objectivity. He also thought drafts of important works were more useful and more valuable when they revealed the author's thought process or revision strategies. Elwood Jones, Trent University, advised that literary collections should be appraised from the item level, and often required knowledge of other authors who were correspondents. Databases rarely give access to such significant detail, and appraisers are misled if they choose to compare literary collections by the reputations of the creating author. Large literary collections are often used by researchers and appraisers need some knowledge of research trends.

Brock Silversides, University of Toronto and a private appraiser, summarized his appraisal experience in a talk he titled "The Dark Cloud." The appraisal process involves several players from the donor, the institution, the government, NAAB and other appraisers, and sometimes brokers. He believes that appraisers should be free of pressure from any of these sources. He offered rules that would improve the process, and let the appraiser be more effective.

Normand Charbonneau, BAnQ (Bibliothèque et archives nationales du Québec) discussed the well-defined appraisal processes at his institution, and particularly the ways this changed with the fusion of archives and library. It developed a series of guides that related to specific categories of archival donations. This was necessitated by the various departments in their decentralized system that has to deal with donations. The first was on political papers, and was developed in conjunction with the National Assembly. They have also published guides for architects, publishers and political parties. Other publications discuss archival concepts, such as fonds. Charbonneau noted that fusion has worked well.

Elwood Jones, Ontario Director of NAAB, discussed the identification of market in fair market value. Appraisers need to think in terms of market, and need to identify market even in situations where they believe market to be fictional or virtual. Archives have financial value but the value is sometimes depressed because with donation the specific materials being appraised were not available to book dealers or auction houses. The market is definable and real, not hypothetical. He had suggestions for archivists and others to assist in identifying real market values. He also refuted the suggestion that some collections,

often described as research collections, had no real market. When appraisers recognize the presence of market, they are then able to envision approaches that might be taken by institutions or communities to raise the funds that would be required. The ability to raise funds by budget strategies or direct appeals to alumni or philanthropists or the general public helps to define the maximum fair market value for such collections.

Sonia Lismer, CCPERB, gave a second presentation, which she titled “Unleashing the Mystique of a Reasoned Justification.” The most straightforward justification was by sale. A cost approach would be valid when combined with reasoned justification that considered reference points for value. The less sales information the more that the appraiser needs to consider other approaches. It is useful to share information about prospective markets and suggest realistic estimates of prices that could be achieved. One might talk of research value, rarity, quality, condition, historical context, earlier monetary appraisals with pertinent relationships, and why the institution is acquiring the donation. There was a vigorous discussion from the floor. She noted that CCPERB considers annually about 1,000 applications for cultural property.

The conference ended with a round-up session in which some speakers responded to questions that had been asked by the delegates.

The conference succeeded in giving delegates contact with speakers with terrific experience to share. Collectively nearly all the situations that might face appraisers were raised, often in different guises and sometimes with optional responses. It is hoped that this summary of the proceedings will be useful in future training sessions for appraisers. Delegates to the conference should appreciate getting information about sessions that for scheduling reasons they were unable to attend.

This report is now on the National Archival Appraisal Board website to make it available to institutions, donors and appraisers. There, people will find contact information about the National Archival Appraisal Board, and the program for the NAAB conference held in Ottawa in October 2007. As well, we will include updated information on printed sources recommended by conference speakers.

Many people deserve our thanks for ensuring this conference could take place. The support of the Department of Canadian Heritage, Canadian Cultural Property Export Review Board (CCPERB), the Canada Revenue Agency (CRA), Library and Archives Canada (LAC), the directors of the National Archival Appraisal Board (NAAB), the Board and staff of the Canadian Council of Archives (CCA), the Archives of Ontario, and Bibliothèque et Archives nationales du Québec (BAnQ) were crucial to its success. Thanks, too, to the members of the Program Committee: Elwood Jones, Marcel Caya, Stephen Lunsford, Jim Burant, Christina Nichols, Ken Larose, Fred Farrell, Mark Epp, Mario Robert. The Local Arrangements people, beginning with George Rogerson and Micheline Belanger from Osprey Associates and others notably from CCA, LAC and NAAB, did a splendid job. Special thanks to all the speakers, not only for their presentations at the conference, but for the generous ways they shared their experiences, and for the considerable preparation necessary for some of the quite elaborate presentations, and the hands-on materials that were brought to the conference. We are grateful to the many institutions which found ways to give support, and of course to all those who came to the conference.

We hope this report proves as useful as we had hoped. There have been dramatic changes over the years, but archival appraisers have remained useful and effective. There is great pleasure in rescuing Canadian heritage.

SECTION 1: OPENING REMARKS

Marcel Caya, National Archival Appraisal Board (NAAB) Chair, welcomed delegates to the conference, and recognized their interest in the issues of monetary archival appraisal. This significant interest in the conference confirms that more information regarding the appraisal of archives is required.

NAAB became an independent organization in 1983, and has since maintained the objectives: to serve the need for reasonably priced appraisal services amongst repositories; to promote greater understanding among those working with archival materials; and, to provide a balanced approach to the appraisal process by the inclusion of archivists, dealers and others familiar with the value of archival documents. NAAB appoints committees to examine archival materials, determine their value, and prepare reports regarding their fair market value. In accordance with current regulations, an institution can then issue a donor a receipt for the value stated on the appraisal report.

NAAB Appraisal Committees are appointed by the Regional Director or the Assistant Director; they typically include three members: an archivist, a dealer and a researcher. Others are appointed to the committee as required, depending on the nature of the materials being appraised. For nearly 40 years, NAAB has thus contributed indirectly to the creation of archival expertise.

During its short history, NAAB has held two prior conferences. The first was held during the 1970's which brought together original members to discuss concepts and methodologies used in the appraisal of archival records. The second conference was held in 1985 which brought together members of Appraisal Committees and various stakeholders.

With so many changes on the Canadian archival scene since NAAB's creation, it became necessary to revisit NAAB's operations, procedures, and governance and indeed to reexamine the very relevance of its existence.

The first step was reached when NAAB modified substantially the way it carried its operations. In 2005, the Canadian Council of Archives (CCA) agreed to host its Secretariat. In doing so, it recognized NAAB as a service worth supporting. At the same time, NAAB ended its isolation in linking its future to the organization that brought Canadian archival institutions together.

NAAB later undertook an examination of the impact of its activities on the archival community and its potential for increased services, by mandating Carman Carroll to develop a report on NAAB services. The final version of this report (submitted in June 2007) provides an analysis of NAAB's past performances and includes recommendations that will impact the future of NAAB.

The Board of Directors analyzed most of the report's recommendations, which became the basis of the organization's working plan for the coming years. A summary of the report will be provided later in the conference, and will soon be available on the NAAB website. This is another step towards planning for NAAB's renewal. It will have a major impact in adjusting the objectives and improving operations of NAAB.

The organization of this conference has been on the minds of the NAAB Board of Directors for some time. In a sense, it also marks the beginning of a new era for NAAB. Contrary to the first two which proceeded by invitation only, this third conference welcomed a broader target audience; it reached beyond the ranks of NAAB members and clients, to include professional archivists across Canada, independent appraisers, representatives from the Canada Revenue Agency (CRA), Canadian Heritage, the Canadian

Arts and Heritage Program, and others. Diverse groups were brought together to create networking and information exchange opportunities.

The conference intends to capture and communicate appraisal policies and to stimulate input from the appraisal and archival communities. Archival monetary appraisal remains an act of judgment rather than a mathematical formula. While basic premises can be agreed on, the methods and criteria used cannot be standardized. Breaking the mystery surrounding monetary appraisals should also initiate dialogue regarding the skills and knowledge required to sustain appraisal standards in Canada.

Although conference organizers preferred a full week for the conference, it had to be restricted to a day and a half. Priority was placed on transmitting information and allowing sufficient time to discuss methodologies. In addition to plenary sessions, workshops offered parallel theme-specific sessions, while repeated media sessions dealt with some practical aspects of appraising specific media.

The Chair expressed the hope that this conference generate many discussions and create an interest for research into the methodologies to be used in monetary appraisal work. He added that we should not wait another fifteen years to meet and take stock of our progress, and examine new problems and issues. That is why it will be important to provide more opportunities to offer monetary appraisal training to more experienced and new archivists as well as maintain a forum for a better exchange of information.

The Chair also extended special thanks to the Canadian Arts and Heritage Sustainability Program of Canadian Heritage and to Library and Archives Canada who have provided substantial financial support to make this event possible. He also expressed his gratitude to the Program Committee, who has worked under the leadership of Elwood Jones, to the Canadian Council of Archives, and particularly to its Executive Director, Christina Nichols, who has been a driving force behind the whole project.

SECTION 2: PLENARY SESSIONS 1

2.1 *Appraisal Imperatives* (Marcel Caya)

Marcel Caya, Université du Québec à Montréal (UQAM), indicated that he would mainly comment on a number of issues that continue to shape, or at least influence, the framework of monetary appraisal of archives. Some are long-standing issues; others refer to much more recent problems. They constitute the basis of the monetary appraisal imperatives, since they are likely to affect the practice of appraisal for many years to come; they will certainly remain implicit in our discussions over the next two days and, perhaps, even longer.

The concept of “Fair Market Value” is the basic notion that is used, when no prior transactions are available to set value; it must come first in our considerations since it applies to most donations of archival material. The definition most often used in our context is that of the Canada Revenue Agency, which reads as follows:

“The highest price expressed in terms of money that the property would bring in an open and unrestricted market between a willing buyer and a willing seller who are knowledgeable, informed and prudent and who are acting independently of each other.”

There are many other definitions which contain the same terms. The condition “would bring” is critical and suits the context of monetary appraisals of archives, as it allows for reasonable determination, even when a transaction can not match the material in all respects. Many other definitions of Fair Market Value are available; they all more or less contain the same terms “willing and knowledgeable buyer and

seller” as well as the condition expressed by the terms “acting independently”. What is most significant, however, is the use of the conditional “would bring”, which perfectly suits the context of monetary appraisal of archives, since it allows us to make a reasonable determination even when we cannot find a transaction that matches the material under examination in every respect.

The use of the Fair Market Value concept is often questioned because of the word “market”. The virtuality of the concept in an environment that is not market-driven invites questions about its accuracy, veracity or even realistic nature. One recourse is to compare with actual transactions for which information is available. We can also respond by pointing to the general use of the concept of “value” in many areas where markets will never exist: think of the judge who has to evaluate the prejudice caused to the reputation of a plaintiff in a libel suit or the value of compensation to be paid to a person who has been injured. In this context, we can continue to be comfortable in making determinations of fair market value on the understanding that if an open market existed, such values would be reached.

Archival appraisal does not occur in a vacuum. In the absence of an open and regular market, monetary appraisers of archives verify their determinations against the opinion of others. NAAB’s process of triangulation, which involves at least three individuals giving an opinion from the viewpoint of a dealer, a researcher and an archivist, is a most interesting process for arriving at reasonable conclusions about the value of an archival donation. In other contexts, the appraisal conclusions reached by at least two experienced individuals acting at arm’s length is also a safeguard against arbitrary determination. To complete the picture, the work of CCPERB in approving monetary appraisals of donations to Canadian institutions provides a layer of validation to the whole process that adds considerable credibility to the system.

The Canadian system to encourage donations in kind to public institutions is often questioned by some who argue that values would not reach these levels if institutions had to pay real dollars for them. This argument is easily countered by noting that all Canadian archival institutions taking in donations agree, in fact, to pay for the processing, preservation and reference services needed for the adequate processing of their fonds. The monetary value of a donation is not a useful consideration for archival institutions. The compensation allowed through the Canadian tax system is solely used to encourage private individuals holding interesting archival material to donate it to an institution that will make it available for research.

Moving towards a new era, new issues have forced the consideration of old practices. More attention is now being paid to different types of records. Attempts are being made to provide values to each different type of media. Photos and films are often appraised based on the cost of their reproduction. But since more motion pictures and photographs are being produced and kept in digital format, it is difficult to continue using the same basis for setting values. Further consideration is required regarding whether audio-visual material and film should be appraised on the basis of its characteristics, the media on which it is recorded, or the nature of the record produced.

Many of the conference’s sessions will discuss the methodology that should be used when appraising records. Advances are needed regarding the appraisal of such records, particularly for digital records that are increasingly part of archival donations.

The speaker hoped that with the efforts of the participants and of their institutions, the Canadian archival community would be able to develop more and better ways to perform archival monetary appraisals and thus encourage more donors of good archival material to entrust their valuable records to Canadian archival institutions.

2.2 *Appraisals: An Auctioneer's Perspective (David Silcox)*

David Silcox, President, Sotheby's Canada, pointed out that his approach towards art changed quickly when he joined Sotheby's and began selling. We live in a period in which we're experiencing an avalanche of collecting activities. The "Antiques Roadshow Syndrome," as he called it, has led to more collectors in cards, dolls, vehicles and other collectibles.

Despite the best efforts to determine value, a Paul Kane painting expected to fetch \$450,000-\$550,000 at auction, actually sold at auction for slightly more than \$5 million (a record-setting sale for Sotheby's). While it is important to be objective in a subjective world, it is difficult in the rising market since 2001 where the only certainty is uncertainty.

In the art world, there are estimates and sales results which provide a "handrail to hold" when appraising an item. Those in the business develop a "sixth sense" through their appraising experiences. The only real way to establish fair market value is to sell an item. Determining the value without selling something, in a manner that is fair and credible to all parties, is challenging. Manuscripts, books, pictures, photographs, objects, and many other unique items need to be appraised. We often deal with rare, unique or singular items. The purpose of an appraisal is often to find a monetary equivalent for something that is truly priceless.

The details and condition of a collection must be considered. Some judgment is needed regarding an item's originality. Missing items must be identified. One must have knowledge of the material and comparable material, consider the long term value of an item and its research potential; consider which market is appropriate, whether national or international; review market trends, and the auction market to get indicators of the value of certain materials. It is also important to consider the views of the stakeholders – donor, tax department, and receiving institution – and also related collections acquired, the perspectives of other institutions, and the commercial market.

Every appraisal is unique. For example, the appraisal of Pierre Trudeau's private papers (separate from his papers as Minister or Prime Minister) was a fascinating experience. The collection included his baby book, university essays, notes and letters from his private sector activities, over 2,000 photographs and 900 negatives. The committee, in developing a reasoned justification, considered the appraised values of other collections, such as Richard Nixon's, on particular points of comparison.

When the Hudson's Bay Company's (HBC) archives were appraised, a 20% premium was added because the *whole* collection was worth more than the sum of the parts. The material, its monetary value, national and international parameters, and related materials, were considered.

Small committees provide different perspectives and enhanced credibility to an appraisal case. An anthology of NAAB reports that, without violating confidences, set out arguments, or discussed particulars, would be tremendously useful for future appraisals and appraisers.

2.3 *Appraisals: Experiences of a Book Dealer (John A. Moldenhauer)*

John A. Moldenhauer, Rising Trout Books, accepted the request to speak about his experiences related to the appraisal of printed books, and to relate those experiences to more traditional archival documents. Keeping abreast of current book prices remains an ongoing challenge. Although current sources for this information can be greatly enhanced by the Internet, it can also present some hazards. The Internet is the best source for information regarding some low to middle priced books. However, the greater the rarity of

the book, the less likely it will be identified on the Internet. As such, it is best to use an Internet listing from a reputable and established dealer who issues catalogues [such as “Auction Catalogues”].

Pre-sale estimates can be challenging to compile. When auction records are used for appraising books it is important to keep in mind that sometimes books do not sell. The definition of “fair market value” suggests conditions that are applicable to an auction setting. It is important to use realized prices as the basis for appraisal work. When using auction catalogues, it is important to understand that the description in a catalogue reflects in-house information. It is useful to take some time to get to know the auction houses and their descriptions, and to learn the differences between them.

There are variables that take place at each sale. Intangible things can affect the realized prices of books at auctions. The “aura” of each sale needs to be considered. Various factors affect some sales, including the weather, and the sale’s advertisement. Prices realized at a sale are not always reflective of the people at the sale. Pre-auction on-line bids can also affect sales. The mood between morning and afternoon auctions can be affected by a number of variables [such as a leisurely lunch break]. Appraisers need to be aware of the factors that affect the amount paid for an item at auction.

There is a difference between an asking price and a sale price. Arguably an item is not worth anything until it is actually sold. It is important to look at past catalogues from a dealer to understand whether the dealer generally prices books on the high side or low side. Traditional printed sources for book values are less frequently used than the Internet. Traditional sources tend to quote auction sales.

Appraisers could use their own past sales when appraising a book. Another good source for book prices can be bookshops, locally or in the UK as many bookshop sellers are quite knowledgeable of book values and trends.

Changing trends and tastes in books can be difficult to predict. This is common with other items as well, which can lead to lengthy determinations of fair market value. “Condition” is a critical factor to consider when appraising a book. Some collectors want books in “as issued condition”. When pricing a book for resale or appraisal, the edition may have a significant effect on its value. Provenance is also an important consideration, as a presentation copy from an author, or a signed copy, can be more valuable. Limitation can be a misleading consideration. A limited edition book that is one of four thousand copies isn’t significantly unique. The binding of a book can contribute to its value, depending on the company that bound it.

The appraisal of books is easier than appraising archival materials, particularly with the use of resources available via the Internet. The archives market is not as active, particularly for manuscripts, autographs, and some photographs. The more famous the photographer the easier it is to appraise, as a track record likely exists in the marketplace.

On the rare occasion, an architect enters into a gallery arrangement, and the architectural drawings are listed for sale at a high price. Although some sales take place between private buyers and sellers, more take place between sellers and institutions. Information regarding these sales is confidential and cannot be used in an appraisal. In appraising archival material, there isn’t always a demonstrated market. As such, it is important to look at the material being appraised. Prior appraisals must also be considered.

From a book appraiser’s perspective, a keen attention to detail is critical. Most points considered when appraising rare books do not easily apply to the materials appraised as archival donations. This experience can also be applied to the appraisal of manuscripts, photos, architectural drawings, and traditional archival materials. In concluding commentary, he believed that his attention to detail as a book appraiser had contributed to his reputation in the appraisal of archival material.

SECTION 3: THEMATIC WORKSHOPS 1

3.1 Stakeholders (Normand Laplante)

This workshop considered ideas related to stakeholders, methodology, and implications of archival monetary appraisals in hypothetical and theoretical contexts. The discussion was intended to be helpful to people who approached issues not as appraisers but as those who engaged appraisers and assisted them to be more aware of the kinds of issues that should be considered. (This session was presented in French.)

Moderator: **Jim Burant**, Manager, Art and Photography, Library and Archives Canada

Speaker: **Normand Laplante**, Senior Collections Policy Officer, Library and Archives Canada

Jim Burant explained that the session was the first in a series of four sessions to discuss stakeholders' methodologies. This particular session will focus on issues concerning evaluation and digital documents, and a general overview of challenges faced by Library and Archives Canada (LAC). These issues will be viewed more thoroughly in the other presentations given by other speakers.

In the next ten years, two major themes will engage archivists. The first theme is demographics. Baby boomers (those born between 1946 and 1959), now nearing the end of their career, are thinking about what their career represents and how they will be viewed in retrospect. They feel their careers merit preserving and their work should be highly valued.

This creates issues for LAC. Many baby boomer donors feel LAC should accept their material because they are nationally significant. A large group of people will retire by 2015. This will put a lot of political and financial pressure on institutions. The trend is already noticeable amongst artists and photographers, as many of them rate themselves with Yousuf Karsh and wonder why they don't get valued based on his accomplishments.

They also have a sense of value of the things they collect. For example, a BC man with a collection of 12,000 bottles spent two years looking for an institution that would be interested in his collection. Such situations create a challenge for LAC, who must find a way to respond to these potential donors. It is important to note that an avalanche of collections could significantly reduce the value of any one particular collection.

Technology is the second theme engaging archivists during the coming decade. Changes in technology have resulted in an increase in the varieties of media now available (e.g. paper, floppy disk, CD-ROM/DVD, memory sticks, slides, photo albums, camera memory cards, etc). Having numerous forms of media poses a challenge making it difficult to assign a value to electronic documents. Some appraisers are appraising digital files the same way they would appraise a photo negative.

The demographics of appraisal itself are also a consideration. Most of the people who do appraisals have vast experience, which also suggests that they are close to retirement. This will be a considerable challenge for NAAB, as it now needs to think about how archivists will be trained, and what kind of skills they should have and/or need during the next ten years.

Burant then introduced and provided background information regarding his colleague, Normand Laplante.

Normand Laplante acknowledged the challenges facing Library and Archives Canada in the management of archival document collections for the purpose of tax receipts. This session will present a few examples which encourage discussion between archivists and specialists in monetary evaluation. They can share their useful experiences on the subject.

Library and Archives Canada (LAC) has a mandate with respect to the acquisition and preservation of Canadian documentary heritage. Donations of archival material with tax receipts are the principal means by which LAC acquires new holdings. It is LAC's policy to offer a tax receipt to donors and most donors accept this offer. Two groups of donors do not qualify for tax receipts: not-for-profit organizations and donors who do not pay taxes on Canadian revenue. LAC can use its discretion, and may decide not to issue a tax receipt when the cost of the evaluation exceeds the value of the donation.

There are four main challenges related to monetary evaluations. First, donors often have expectations that need to be managed; this can be challenging. Many donors are impatient to receive their tax receipt. Archivists need to make sure donors understand the process behind issuing a tax receipt. There is a scarcity of available appraisers. Donors have the option of getting their appraisal done by an independent appraiser if they want to know the value of their donation before actually making the donation. Or they might wish a second opinion later. LAC will, in some cases, pay for a second appraisal if the donation is of great national importance.

A second challenge is how to manage resources associated with the monetary evaluation of donations. Even though the cost of monetary appraisals can be viewed as an integral part of the cost of acquisition, the reality is that the evaluation has a large impact on LAC's budget. The institution must base its tax receipt policy on its capability to offer such a service to its donors. It must provide the human resources necessary to prepare the required documentation for the monetary appraisal. It must secure appraisals, and meet the needs of appraisers.

A third challenge is how to avoid imbalances in the process, to make acquisitions more equitable. In the mid-1990's it was common practice at LAC to provide a description of all archival fonds in order to ensure that all documents were easily accessed by appraisers, both physically and intellectually. Unfortunately, this prolonged the time before appraisers could gain access to the documents, and also delayed the donor's getting their tax receipt. Donors were frustrated. LAC had to come up with a simpler process, while maintaining the quality and accuracy of the appraisal.

Beginning in 1998, LAC offered three options. With permanent treatment the arrangement and description of the fonds is complete and detailed and the fonds is ready to be placed at the disposition of researchers. With selective treatment the fonds has a partial physical arrangement and complete intellectual control. With an accelerated approach the fonds receives no physical arrangement but the necessary intellectual control for appraisal and access) is supplied. LAC assesses the type and importance of the documents and determines the appropriate arrangement level.

The third challenge relates to the evaluation of the content and different supports. The archival evaluation of a fonds requires good knowledge of the content; the monetary appraisal of the document requires expertise about market values and particular media. Sometimes monetary appraisers of fonds from different communities might require knowledge of languages and cultures. All these challenges remind us how difficult it is to find qualified appraisers, and how important it is to provide accurate appraisals.

The fourth challenge is the Canadian Cultural Property Export Review Board. The Board wants to be assured of the exact market value, the national importance, and also wants these to be well-justified. Archival institutions need to spend more time on their appraisals to ensure that their reports and physical presentation of the documents are very thorough. This can place the donor, the appraiser and the commission in a delicate situation.

The following points were raised in discussion (*the speaker's comments are identified in italics*).

[Inaudible comment] *We always offer tax receipts to donors.*

[Inaudible comment] *For us it is important the documents are of national interest. The donor does not necessarily need to be famous for the document to have value.*

Sometimes we get people who have donations that are very useful and fill in the gaps in our collections. Most times, however, they are not of much interest so we need to manage donors wisely by offering them alternatives (e.g. directing them to a museum that might have interest in their documents). It is important not to offend them by telling them their donation has no value. Do any of you have a guide, donor book or pamphlet to offer to potential donors that describes the donation process?

Most donors understand that we have a limited budget and that most of what the archives receive is donations. Only rarely, in special cases do we actually pay someone for their documents. Sometimes, if needed, we may get funds from the treasurer. We need to be careful because some people compare themselves to famous people, to try to get more for their donations.

Is there information on your website?

You won't find everything, but yes, there is information pertaining to this on our website.

Many times people ask me questions and I refer them to Library and Archives Canada but I don't know who to refer them to. Where could I find this out?

Since some institutions have those types of documents, we could ask them if we could copy them to our web site, so they can be accessible to everyone.

Traditionally negatives are not worth much (e.g. \$1 to \$2 each). Digital photographs are appraised similarly. However, 8" x 10" photographs on the other hand, are appraised between \$10 and \$20 each. The cost of film has been going down; so more pictures are being taken. We are seeing the same problem in the audio-visual area. If it's on film, we give it more value than if it is on DVD. We have to think that ten years from now, most documentation we receive will be in digital format.

We need to start looking at how much people are willing to spend to download an image, a song or a film. This might help us determine how we value digital donations. Whether or not there's an actual physical form, if someone is willing to pay to download a screensaver maybe that is a value. There is a commercial market out there for digital media.

3.2 Appraisal Assumptions (Carman Carroll)

This session discussed what needs to go into an appraisal report, using the NAAB appraisal form as the conceptual model. The session discussed the broad outline of the form, and considered the concepts that divided the form, as there are philosophical and practical issues tied around both concepts.

Moderator: **Mark Epp**, Senior Coordinator, Archives of Ontario

Speaker: **Carman Carroll**, Special Advisor, CCA Board of Directors

Mark Epp welcomed participants to the workshop, referenced a sample NAAB Appraisal Report provided for information and reviewed the professional background of the Workshop Speaker.

Carman Carroll acknowledged that most of the delegates attending the workshop were archivists. While he was Provincial Archivist of Nova Scotia, it was important to establish institutional monetary appraisal standards and set out how archivists should prepare fonds for NAAB Committees.

Carroll then reviewed an overhead presentation titled “Appraisal Assumptions” which offered information regarding the importance of appraisal partnerships: donors, institutions and appraisers. Donors, as partners in the process, have the right to a tax exemption for their donation, and must be treated fairly. Institutions that accept material from donors also have rights, roles and responsibilities. Appraisers must also be considered. Some appraisals are approved by CCPERB where an institution has applied to have the donation certified as cultural property, while most appraisals are reported through the CRA.

Regarding the slide titled “Pre-Appraisal Checklist”, NAAB appraisals are only done if the archival materials are formally donated. NAAB does not appraise proposed donations. A NAAB Committee will only come in when the donor agreement is complete and accessible. Individual appraisers may appraise materials that are proposed gifts. It is helpful to know that the gift is forthcoming, and that there is a draft agreement agreed to by both parties. Otherwise, the appraisal may be done on materials that may not make it to the archives. If a formal donation has been made and the donor is displeased with the monetary appraisal, the donor has the right to request subsequent appraisals at his or her own expense, which can be later submitted for a final determination.

An archival appraisal must be completed before the monetary appraisal is begun. If the monetary appraisal was done before the archival appraisal, appraisers could be appraising material the archives may decide not to keep. Monetary appraisers need to see all the written descriptions of the material being appraised. Vague references, for example, to “several boxes of photographs” create difficulties.

With respect to “Description – Appraiser”, he noted materials stored off-site must be made available to the appraiser. The appraiser may require access to technical equipment, such as computers and projectors, to view materials. When questions cannot be answered as the appraiser reviews the material, the appraiser must have adequate access to an archivist. Monetary appraisers should do their own rough count of materials if the number of individual items has not been provided in the finding aid. If there are subsequent differences of opinion regarding the extent or content of the material, it could reflect poorly on the institution and perhaps the appraiser.

For larger fonds, an appraiser should appraise and describe each of the units separately. Appraisers should be informed whether the fonds is complete, is an accrual, or is part of a continuing donation. Donors often ask if their materials would be valued higher if they donated them incrementally. Most appraisers agree that the value of a collection is greater when complete, and would not encourage a donor to donate incrementally, as it is counterproductive for everyone involved.

Appraisers can only appraise what is in front of them, not “what might have been donated”. The appraiser should know something about the width and breadth of a creator’s activities, as this is not always conveyed in records. It would be difficult otherwise, to contextualize the appraisal and to determine fair market value.

Appraisers should use their own words when developing appraisal reports, and should not use the institution’s or donor’s descriptions and commentary. CCPERB and CRA only see the narrative reports (from appraisers and institutions) for cultural property and gifts-in-kind. Consequently, the narrative reports from both institutions and appraisers must be as complete as possible. When appraisers are confronted with an inadequate finding aid, difficulties arise. Appraisal reports in these instances can be very time-consuming to complete, and may result in delayed tax credits.

The archival appraisal should flag duplication in a collection as this might affect fair market value. Sometimes contents are duplicated within the fonds, or in other fonds, within other repositories. For example, there could be multiple complete sets of a television program or series. Consideration could in such instances be given to different values for the first and subsequent sets.

With respect to “Significance”, institutions preparing reports for CCPERB must certify that a donation is of national importance and outstanding significance. In these same instances, the monetary appraiser should also indicate whether a donation is of national importance and outstanding significance. The appraiser should identify strengths and weaknesses of the material. Such considerations could be based on the major activities of the donor. An appraiser should also question what the material adds to the general knowledge and understanding of the time period.

There may be multiple uses for the material being appraised. Consideration should be given as to how the records could be used in whole or in part, for example, in a biography, thesis, or major study. The appraiser should also consider how the records provide new evidence of an historical event, challenge a long-held historical theory, or add details or fresh perspectives. There is a direct correlation between research potential and fair market value.

Each part or component of a fonds is not necessarily equal in value; this must be identified accordingly by the appraiser. It is important to recognize the value of each series and sub-series. Appraisers must consider quality, quantity and completeness. In some instances, institutions do not submit appraisals to CCPERB because they feel that their material isn’t of national significance. However, it could be of great local or provincial significance. If a case can be made that the material contributes significantly to the understanding of a region’s history, there may be sufficient reason to have the material certified as being of outstanding significance and national importance.

Regarding “Justification”, Carroll noted that the appraiser must address how the physical condition of the material impacts on fair market value. If material is in poor physical condition it has lower fair market value. When materials require significant conservation work before being used, fair market value will be less.

Access restrictions also affect fair market value. A donor agreement should clearly stipulate any access restrictions. For example, a collection of an artist’s material, inclusive of correspondence, and other items, with a long-term restriction, is worth significantly less than if there were only short-term or no restrictions.

An appraiser’s own precedents for comparable fonds or sections thereof can be used in establishing values. Although CCPERB may certify a fonds, this doesn’t necessarily establish fair market value. Consideration in establishing monetary value should be given to marketability, collectibility or autograph interest. Other issues affecting the value of material may include: completeness, uniqueness, age, availability of information from other sources, reliability, authenticity, historical/research values, relevance, provenance, and the name of the donor/creator of the records. Comparable market sales for similar material should be used when available. For NAAB appraisals, NAAB has a database of over 6,000 appraisals completed during the past 40 years, which is accessible to NAAB regional Directors.

Regarding the slide titled “Fair Market Value”, it is important to remember that fair market value is the current value, and normally not the value five or ten years hence. The appraiser must appraise physical property only, not intellectual rights in the donation. Appraisal reports should also state that the appraisal is of physical property only. An appraiser should be fully aware of the terms and conditions of the donation. There should be no value assigned for finding aids.

When there is a limited market for archival material, reasoned justification often becomes essential. An appraiser must be prepared to defend their appraisal, to the donor, CRA, and others.

Further comments are welcomed at Carman.Carroll@nl.rogers.com

The following points were raised in discussion (*the speaker’s comments are identified in italics*).

What if a donor assigns copyright to an institution?

The CCPERB will not certify any values assigned for copyright or other intellectual properties. A submission can be made to CRA for any values assigned for copyright.

Is a copy of the report supposed to go to the donor? It is difficult to write justifications for the appraisal, knowing that the report may be presented to the donor.

This is an individual institutional choice. Copies of appraisals are sometimes provided to donors. Appraisal reports should state the purpose of the report, noting that it can not be used without permission.

Should the institution indicate whether the item being appraised is a duplicate? Should they turn it away?

The appraiser may recognize this while reviewing the fonds.

Is there no value to finding aids even if produced by donors? Sometimes finding aids are used by donors.

Account books and ledgers could have had an index which could be considered a finding aid.

There is a lot of pressure on an appraiser to use their own words in appraisal reports.

Wording should not be copied from another report, without recognizing the attribution. The report could simply state "these notes were provided by the institution". Appraisers should also indicate in their reports, to the best of their ability, how the material will be used.

3.3 Donations in Kind (Ann Rénöus)

This session shared the way appraisals are considered. It described the wider world of appraisals, and dealt in establishing context and ensuring the credibility of the appraisal system.

Moderator: **Mario Robert**, Records Management Archives Analyst, City Clerk's Department, City of Montreal

Speaker: **Ann Rénöus**, Policy, Planning and Legislation Division, Canada Revenue Agency

Mario Robert summarized the professional and educational background of Ann Rénöus, and noted her expertise relative to the Income Tax Act.

Ann Rénöus planned to discuss requirements for issuing tax receipts. Only registered charities and qualified donees can issue receipts, which allow donors to receive a deduction on their income tax. Only certain types of transactions are eligible for a tax receipt.

Before determining whether a receipt can be issued, it is important to determine what the gift is. A gift is a voluntary transfer of property for which the donor receives no consideration in return. The definition states that the donation must be voluntary: the donor cannot be compelled by outside influences, and must act intentionally. Taxes and payments for services are not voluntary, and are not therefore eligible for a tax receipt. The donor must relinquish ownership of the property. The receipt must be for property, which can be tangible and intangible. It cannot include services or contributions of time or effort. The donor must be aware that he will receive no compensation, aside from the pleasure of making a gift.

It may be possible, under the income tax act, for someone to receive consideration for their gift, and still be eligible to receive a tax receipt. The amount of the advantage cannot exceed 80% of the value of the gift transferred. When considering an advantage to the donor, a variety of advantages can be considered. This could include property (e.g. t-shirts) but could also be the use or enjoyment of a property (e.g. if a charity had land on which donors were invited to camp).

In response to questions raised, it was noted that the value of the advantage could be deducted from the value of the gift.

The provision of a service could also be considered an advantage. If the donor received a service for a certain amount of a donation, it would have to be costed. Any assumption of costs on the part of the charity, would also be costed e.g. if someone donated a house and the charity had to assume the mortgage, these costs would need to be considered.

Appraisers may be asked to appraise a piece of property for an amount less than its value. The advantage to the donor in this situation needs to be considered. With the concept of split receipting, a receipt may be issued for the eligible amount of the gift that is the difference between the fair market value of the property received, and the value of the advantage conferred for the donation. For example, if an individual donates a painting valued at \$10,000, for which the charity gives the donor a \$500 print, the donor would still receive a receipt, as the advantage conferred for the donation did not exceed 80% of the fair market value, although the gift to the donor would be deducted from the receipt.

If an individual wanted to sell a million dollar antique china collection to a museum, and only asked \$100,000 for it, the transaction would also meet the intent to gift, as the donor received less than 80% of the value of the collection donated. The \$100,000 received by the donor would be removed from the value of the donor's receipt. If the donor's request was unreasonable, this too would need to be factored into the eligible amount of the gift.

Fair market value needs to be established before a receipt can be issued. Although CRA doesn't provide evaluations, reserves the right to question the fair market value. Charities must establish due diligence in determining fair market value, and appraisals should be done by an independent third party, at an arms length. Organizations are expected to review the appraisal to ensure it is acceptable and reasonable. It is important to note that more than one appraisal may be required, if the first is deemed unreasonable.

It is vital for the charity to know the value of the donation and the advantage(s) given to the donor. If a donor receives publicity in return for the donation, this might have value. Charities need to be cautious in accepting estimates of fair market value from donors. Some gifting arrangements seem to abuse the system. Some donors grossly overstated fair market values. The charity must confirm the appropriate fair market value, before issuing a receipt. The charity should arrange the appraisal.

Charities must ensure that fair market value is accurate so they can avoid reassessment by CRA. CRA has assessed heavy monetary penalties to donors and charities which entered into abusive tax shelter schemes. If an appraiser thinks the value of an item exceeds \$1,000, charities should seek an outside third party monetary appraisal.

The definition of a "tax shelter scheme" includes any property or gifting arrangement for which a promoter indicates an investor can claim a deduction or credit, equaling or exceeding the cost of a property (less certain benefits) within a four-year period. A donor could be encouraged to put out a certain amount of money, but would receive a tax receipt well in excess of their contribution. There are promoters seeking charities that will accept donated property, supposedly of high value, in an effort to unload their property. They provide the appraisal (likely grossly overstated), and only request a receipt in return. Charities have been advised to be cautious of such arrangements, as it could impact their registration and result in penalties.

Another scheme includes "art flips", whereby a donor purchases a piece of art from a promoter, for \$300 for example, which has been evaluated at \$1,000. In this instance, the donor gets an appraisal for the charity, and receives a tax receipt for \$1,000.

For the 2002 taxation year 6,700 taxpayers were reassessed for a total of \$490,000,000 in disallowed donations. The amount disallowed has been exceeded every year thereafter.

As a result of tax shelter gifting arrangements, the Department of Finance developed a “Deemed Fair Market Value” rule. The rule states that if an item were acquired less than three years prior, or through a gifting arrangement, the donor would only be entitled to his cost or the fair market value. If a painting was acquired for \$300 within the past three years, a receipt could only be issued for \$300. There are exceptions to the rule, such as gifts made as a result of a taxpayer’s death, gifts of inventory, certified cultural property, gifts of publicly traded securities and ecological gifts.

When issuing a receipt, the value of an item must be established at the time the property was transferred to the charity. The time before a charity receives a gift, is different from when a donor decides to donate a gift. For gifts-in-kind, the date of transfer must be on the receipt. If a donation were made in a particular taxation year, the receipt must be issued for that year.

The receipt must be in the name of the actual donor. If a donation is from a business, it should be made out to the business, not one of its members, owners or trustees. Proof of ownership is a matter of fact – only the owner of the gift can make the gift, and is the only one entitled to the tax receipt.

Once the gift has been transferred, it cannot be given back, without conferring an undue advantage to the donor.

The tax treatment of gifts-in-kind is similar to gifts of money. In this situation, the tax credit is based on the eligible amount of the gift (e.g. the fair market value, less any advantages). Donors can claim their tax credit for up to 75% of their income. It is important to note that there may be a capital gain or loss as a result of the gift, which could create tax implications. Any unused portion of a tax credit may be applied to the subsequent five tax years.

An example of a unique donation was the donation of a diary which was appraised at \$50,000, at the time of donation. It was originally inherited five years prior. At the time of inheritance it was valued at \$35,000. In this instance, the deemed fair market value rule would not apply, as the item was acquired more than three years prior. The donor was entitled to a receipt for \$50,000, which was the fair market value of the item. The donor would likely need to report capital gains of \$15,000, the difference between the value of the item when acquired, and the fair market value at the time of its sale. The donor would only be able to claim a credit for up to 75% of his income in that year. A diary is considered “certified cultural property”. In this example, if the donation had been gifted immediately after it had been inherited by the donor, the donor may not need to report the capital gains, as the fair market value had not changed.

By donating one’s own personal use property (e.g. a personal diary) a donor would not have to pay capital gains. A CRA publication, available on the CRA website, exclusively addresses the application of capital gains. In the event that the inherited diary referenced earlier, was worth less at the time it was donated, the donor would be eligible to claim a capital loss.

Some artists or art dealers donate from their inventory. In such instances, an amount may be designated between the adjusted cost base and the fair market value, to be their proceeds of the disposition, for the purpose of the tax receipt. The best way to determine fair market value in this situation is through appraisal; however historic sales records can also be accepted subjectively. The total credit they could claim would not exceed 75% of their income. An artist’s inventory could include unsold art, supplies, and unfinished pieces of work.

There is a considerable difference between general gifts-in-kind and certified cultural property (e.g. property of outstanding significance and national importance). Certified cultural property is certified by the Canadian Cultural Property Export Review Board (CCPERB) which also establishes fair market value of the property. The deemed fair market value rule does not apply to certified cultural property. When certified cultural property is donated to an institution or public authority, the donor receives important tax incentives such as: the donor can claim a tax credit up to 100% of their income, capital gains would not apply, and an additional certificate (a T871) would also be received. The tax credit would be based on the eligible amount of the gift (less any considerations received), and could be carried forward for a period of five years.

If the inherited diary referenced earlier was certified as cultural property and donated to a designated institution, CCPERB would establish fair market value. Regardless of when it was acquired, the deemed fair market value rules would not apply, and the fair market value would be \$50,000. The donor would be exempt from capital gains, and could claim a credit for 100% towards their net income for the year.

When artists donate cultural property from their inventory, the proceeds of disposition are equal to the cost of the work of art. In this instance, the gift would not result in a capital gain from the disposition, regardless of the difference between cost and fair market value. However, a tax credit would be based on the fair market value of the property. This makes it advantageous for artists to donate certified cultural property to institutions.

When a designated institution receives gifts of certified cultural property, the property must remain with a certified institution for at least ten years. The designated institution can donate the gift to another designated institution, but not to any undesignated charity. If they do, they would be liable to a significant penalty based on the fair market value of the property transferred, payable within 90 days from the end of the year in which the property was transferred. A specific form must be filled out when cultural property is transferred to a non-designated institution.

The intent of this process is to ensure the proper care of cultural property. Qualified donees can include municipalities, the United Nations and/or its agencies, and a variety of other registered charities. Charities receive all types of properties and sometimes sell them at auction to raise funds for their programs. They can do this with art. However a receipt must be issued for the fair market value of the property at the time of receipt, not at the time of its sale at auction. Fair market value could be much higher than the selling price at auction. Registered charities are subject to a disbursement quota, based partly on the amounts for which they issue receipts. Publications are available through the CRA website which explains how to issue receipts for gifts received. Delegates were encouraged to contact CRA for further information.

The following points were raised in discussion (*the speaker's comments are identified in italics*).

Although it is important to establish fair market value at the time of transfer, many archival institutions experience processing delays. How close to the time of transfer should fair market value be established?

Fair market value should be established at the time the gift is perfected, or at the time the donor relinquishes ownership. CRA applies a standard of reasonableness, and recognizes that appraisals take time. It is preferred that the appropriate time be taken to correctly establish fair market value. If an appraisal takes a significantly long time, consideration is needed regarding the increased or decreased fair market value of the property that may have occurred during the lengthy appraisal process.

When would the three-year rule apply?

The three year rule would apply, assuming a donation is not a consequence of a donor's death. Deemed fair market value rules do not apply to certified cultural property.

SECTION 4: DOCUMENT SESSIONS 1

4.1 *Photographs* (Jean-Phillippe Fauteux)

Photographs can be quite diverse. At this session, participants were invited to learn how appraisers need to consider the artist, the medium, the subject matter, the size and technical quality of the photographs. (This session was presented in French.)

Moderator: **Andrew Rodger**, Photo Archivist, Library and Archives Canada

Speaker: **Jean-Philippe Fauteux**, Professor and Appraiser of Audiovisual Records

Andrew Rodger introduced Jean-Philippe Fauteux. Fauteux is a photographer, graphic artist, animator, consultant and multimedia director. Lecturer at the Université du Québec à Montréal and the Université du Québec en Outaouais, and Fair Market Value appraiser of audiovisual, film and photographic archives.

Jean-Philippe Fauteux explained that the purpose of this session would, through real and imaginary examples, get us thinking about ways of classifying, quantifying and describing the components of a photographic archive that could improve the quality and accuracy of the monetary appraisal process.

Before actually appraising any photographic fonds or collections, it is essential to understand that just as there are many different types of photographic subjects – landscape, portrait, sport, still life – there is no such thing as “photography” writ large. Therefore a definition of what type of photography is involved comes about by grouping photographs by type, be they descriptive, souvenir, journalism, documentary or artistic photographs.

In the appraisal process, the appraiser has only two tools: the archival appraisal and the finding aid. Although these can provide exhaustive inventory data, they do not describe what kinds of photographs are in the fonds. The archival appraisal may describe photographs as follows:

- o The collection consists of 2,100 photographs (prints, negatives, slides and contact sheets).
- o The photographic portion of the Fonds records the professional activities of ...

Among the various events that are documented, the following are included:

- o Various activities surrounding election campaigns
- o Various conferences and congresses
- o Meetings with various associations.

The finding aid presents information in the following form: event; box number; file name; event identified; specific information/highlights/people identified.

Fauteux suggests drawing inspiration from the vernacular tradition of describing photographic content based on four categories of photographic intent: showing, explaining, telling and transposing.

- o Showing - descriptive photography; is basically an objective and sometimes scientific inventory of archaeological, architectural, or heritage subjects, as well as catalogues of products and works of art. This kind of photography makes every effort to “show the subject as it is” without any artifice or attempts to alter it for any specific use. ID photographs, election campaign photographs or similar photographs “for the record” are the most common examples.



- o Explaining - souvenir and special event photography; such photographs are usually part of a collection of family photographs, group photographs, vacations, trips or public or professional activities, usually amateur in nature, and of value to those who are in the photographs. Such photographs usually require an explanation such as “that person is ...”, or “this is a picture of when we were at...”



- o Telling - journalism and documentary photography; this form of photography is the preserve of the professional press photographer and is something that amateur photographers can only dream about. It amounts to “what I am telling you is true because my picture shows it and I was there to witness it”. Documentary evidence, in the sense that there is a degree of objectivity on the part of the photograph or the photographic sequence depicting the events and people, as they are in their environment, is what the “invisible” photographer seeks, striving to capture the all-important “decisive moment”. Such photographs can often be identified by the way they have been framed, showing as much as possible of what is happening.



- o Transposing - the photographer's authorial artistic expression; when photography goes beyond the descriptive, souvenir, or documentary, and when it transcends the subject and the event, and the photographs are imagined, staged, carefully lit, and shot from carefully chosen angles, and when special techniques are used in printing to improve on the original negatives, then they have distanced themselves enough from reality to have ceased to be anything but the expression of the photographer



The use of a classification system based on photographic intent in archival appraisal and in the finding aid would not necessarily aim to establish anything to do with market value, but would rather strive to enable archivists to better describe what is in a fonds, and to therefore make it

possible to obtain more accurate appraisals of “fair market value” that are based on a more solid rationale.

Nevertheless, it must be admitted that “interpreted” prints are generally worth more because there is generally recognition that there is authorial intent.



Every now and then, some photographs could involve several photographic intents: A self-portrait of Jacques-Henri Lartigue with Norman McLaren in his office at the National Film Board of Canada is one such example. It shows where McLaren works, with a photograph given to him as a memento of their meeting pinned to the wall and everything is then recorded in a journalistic photograph.

Assimilating each of these photographic elements to one of the “photographic intent” families as defined above would inevitably improve the accuracy of descriptions of collections, whether from the archival appraisal or of the finding aid standpoint. By adding this information to the finding aid, this kind of classification would provide a better overview of the contents, thus giving the appraiser a better understanding of the collection and thus allowing for a more accurate and better justified appraisal of the fair market value. Not only that, but in the end, this classification by “photographic intent” – descriptive, souvenir, journalistic/documentary and expressive photographs would make it easier for people to consult the fonds.

4.2 Diaries and Commonplace Books (Elwood Jones)

Diaries and commonplace books provide an opportunity to consider appraisal issues. This session considered the questions: “What importance should we attach to diversity versus concentration of

subjects”; and “How important is the author compared to the quality of commentary”. The speaker illustrated the complexity of fair market value in these areas.

Speaker: **Elwood Jones**, Trent Valley Archives

What are the considerations for appraising value and significance of diaries and commonplace books?

The documents used in this workshop will be:

1. J. G. Weir diaries, 1883-1929, 45 volumes, Trent Valley Archives
2. MacDougall Commonplace Book, Montreal, 1825, Trent Valley Archives
3. Port Hope album, private possession
4. Rider’s Almanac 1732

During this session we will:

1. Discuss the importance of diaries in historical research, using the experience related to Martha Ballard’s diary, 1785-1812, Hallowell, Maine. Also, consider the importance of the Mackenzie King diary.
2. Consider the four documents and compare their values.
3. Consider the potential markets for the documents if they were available for sale. What are the ways in which we might assess fair market value, and in particular how are these considerations affected by willing buyers with specific collecting objectives?

The four documents are quite different, but they share characteristics we associate with diaries. They are routine or allow us to establish routines. They allow us to assess things that mattered in everyday situations. Diaries are often used as aide-mémoires to capture rhythms of the season, or of the job, or of travel.

The Port Hope album contained many albumen photos from Scotland, England, the United States and Canada. Particularly noteworthy were the W. H. Jackson photos from Colorado. Overall the photos were extremely high quality, but were diverse. The presenter asked how the value might be affected if it were a record of the travels of the young Vincent Massey, who lived in Port Hope. Would some photos be valued more in specific localities? Estimated fair market value could vary from a low base of \$500.

The excerpts from the MacDougall commonplace book illustrated issues that were of interest to young girls in 1825 Montreal: love, boys and romantic places. However, it also had some very interesting discussions on political and military matters, subjects not usually associated with young women. The book is extremely attractive and provides good insight into the world of 1825. The estimated fair market value is \$1,000 to \$2,000.

The Weir diaries were fascinating and excerpts from the first year illustrated the diversity of the farmer’s life, and documented aspects of local history not otherwise documented in sources known locally. The remarkable length of the diary over 45 years and the quality of the entries and attention to details makes the diary particularly valued.

The 1732 Rider’s Almanac is comparatively rare, and leap years command higher collector interest. The item appears to be worth about \$2,000.

In conclusions, the task for the appraiser is to decide, among other considerations, whether fair market value should reflect the entirety of the experiences raised by the document, or whether only the collecting interest of the potential buyer.

In determining fair market value one has to consider the range of elements that give value. All diaries or commonplace books are not equal.

4.3 Appraising Philatelic Records (Pascal LeBlond)

Speaker: **Pascal LeBlond**, Project Officer, Philately, Library and Archives Canada

Pascal LeBlond gave an impressive summary of considerations and examples related to appraising philatelic records or of individual philatelic items in larger collections. He began with a recent judgment (Robichaud c. La Reine [2004] TCC 661). To the question of whether “The Scott catalogue or guide [is] an appropriate and reliable reference for determining the fair market value of stamps,” the court responded, “The answer is clearly no.” LeBlond explained that the stamp catalogue had limitations. Stamps for example might still be available from the post office for face value. He noted a grizzly bear stamp had a face value of \$8, a catalogue value of \$16, and a fair market value of \$8. A Canada 5 cent stamp has a face value of 5 cents, a catalogue value of 20 cents, and a fair market value of 5 cents.

He noted several factors affecting the fair market value of philatelic items: authenticity, rarity, condition or grading, and auction results. With respect to authenticity he showed examples of genuine and fake stamps. He showed a certificate of authenticity obtained from a recognized expert. The rarity of stamps might relate, for example, to whether the stamp was printed on “wove paper” or “laid paper.” He noted that stamps are rated or graded in different ways. At one level, they are graded as very fine, fine, or very good. Cancellation marks also make a difference. He used one example of a 1934 Cartier 3 cent blue commemorative stamp to illustrate the range of values. He showed catalogue prices for plate blocks ranging from \$1 to \$1,000; mostly blocks of 100 stamps. [His sources were the *Specialized Catalogue of Canadian Stamps*, Unitrade, 2007 edition (2006) p 100.] He also looked at auction results on the internet, working from www.canadianstampauctions.com

4.4 Autographs and Autograph Letters Signed (Patricia Kennedy)

Speakers: **Patricia Kennedy**, Project Archivist, Economic and Governance Archives, Library and Archives Canada

Patricia Kennedy gave a presentation that looked beyond the classic term *Autograph Letters Signed* and included the fullest range of communications found in archives, and considered how not only donations but also potential purchases and material loaned for exhibition are appraised. The focus of the presentation was on how to accurately identify the material to be valued and the factors considered in determining value.

The term correspondence should be applied to all types/formats of communication between two or more parties. Formats include *letters patent* (of invention, of sale or lease, and as commissions) and *letters close*, an Address, bill of exchange, certificate, charter, fiat, Mandamus, memorial, notice, order, passport, petition, Proclamation, promissory note, report, return, subpoena, telegram, warrant, and writ. Copy formats include rough and final drafts, précis or abstracts and dockets, plus entrybooks/letterbooks, registres/greffes. *Autograph* may refer to the signature and/or the handwriting of the author. *Holograph*

identifies the handwriting of the author. The classic abbreviations include ALS for autograph/holograph letter signed, ADS for autograph document signed, and LS or DS for items not in the author's hand. Archivists must consider not only the classic manuscript (handwritten) communications, but also those produced by type-writers, word-processors and other mechanical means, bearing a real or a virtual signature.

An essential preliminary to appraisal is determining the legitimacy of ownership: does the donor or vendor have clear title? Can the provenance/chain of custody be demonstrated or proven? For what appear to be *public records* in private possession, might they be contemporary copies or duplicate originals (such as contracts, treaties, laws and regulations) accumulated by an official who functioned out of his own home? Financial compensation to the current owner/custodian can be justified for the resources expended to preserve the material.

The examination phase serves to identify material accurately, to confirm the catalogue descriptions and collect further information. High-quality reproductions may substitute for direct examination of the physical reality. Is the material complete and intact? Do gaps reflect important aspects of the custodial history? Annotations or the physical evidence of ribbons, pins or other fasteners may indicate the loss of enclosures or other attachments. Is the material authentic/genuine, original or a contemporary copy? Clues to the latter include the letters *LS* in a circle indicating where seals appeared on the originals, (*signed*) written next to the names of the original signatories, or total consistency of handwriting where signatures should exhibit differences.

Lithographs and other facsimile reproductions exhibit more subtle distinctions, absence of the variations created when pens were dipped in inkwells. Note special features such as inset or attached maps, plans, sketches, or statistical tables, and the use of printed forms. Watch for evidence of how and to what extent the material links to your mandate and holdings. Assess the physical condition of the document(s): holes or loss of margins, mold or damp stains; embrittlement, mutilation or vandalism; rodent or insect damage; fading, bleeding or offset of inks; smudging of pencil inscriptions or carbon copies. Note whether those factors affect the content and its legibility. Consider potential limits on access posed by confidentiality or copyright issues. Consider the circumstances of the sale: media hype, bidding frenzies or egomania that disturb or distort the market.

Biographical, geographical and historical background research carried out concurrently with or following the physical examination should verify and supplement information provided by vendors/donors and situate the documents in their proper context. Subsequent analysis of content demands further research to provide the essential foundation for determining "fair market value".

Archivists conducting "in-house" valuations, negotiating private purchases or bidding at auction must understand how vendors establish an asking price and how auctions function. Value is a measure of want, depending on who wants the material and why.

- Aesthetic and physical factors: showpiece items in pristine condition, legible, single-sided, attract collectors. Archivists must put content ahead of aesthetics.
- Cultural factors: symbols and emblems, language, customs and manners, evidence of the lives of women, children, minorities. [An evolving demand for ephemera - menus, invitations, tickets, seating plans, theatre programs - for virtual exhibitions and video productions demands greater attention to such factors.]
- Historical factors: associations with significant individuals or constitutional, political, military or religious events, or with economic, social or scientific developments.
- Uniqueness or rarity - the first, the last, the highest, the lowest, the only item of its type.

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- Quality of commentary: cogency, immediacy, or rarity - the capacity of the authors, their level of literacy or perspective (insider/participant or observer); the voice of children, women, Aboriginals or other minorities.
 - Quantity and completeness: Do only archivists seek complete fonds? Do market prices reflect the reluctance of private collectors to acquire large fonds in their entirety?
 - Evidence of the records-creation and keeping process, of variation in practices over space and time and sphere of activity. [Note the use of printed forms *completed/accomplished in MS*. These indicate a high-volume activity, the potential for many surviving examples.]
 - Special features such as seals or binding, presentation cases or illumination, as evidence that the creators or later custodians considered the documents to be out of the ordinary, contributing prestige or exhibition value to them.
 - Intellectual property values: residual values of patents of invention or trade secrets.

Whether preparing a report for NAAB, an in-house valuation of a donation or an insurance evaluation, the process of establishing “fair market value” should commence with consultation of colleagues to gather contextual information on the nature and extent of similar or related material, whether within or outside the institution, to determine whether price precedents [benchmarks] exist for comparable material. Gather copies of auction and dealer catalogues and sales reports in a reference file of price precedents, distinguishing between asking or estimated prices and actual sale prices, and recognizing the impact of the auction house premium on hammer prices. Append examples of price precedents for comparable material to your reports to NAAB.

When negotiating a private purchase, factor in any requested exhibition, digitization or photocopying, or other non-monetary compensation. Note that when sending material on approval, for examination, dealers will base insurance on their asking price. Other owners may have no idea or a totally unrealistic idea of the market value.

When establishing values for insurance purposes, we may be asked to put a price on the unique. Look for material that might reasonably and justifiably provide a price precedent. Insurance value may not be identical to market value, may need to consider “administrative costs” for the loan of items with little or no recognized market value (such as facsimiles), or the costs of conservation treatment for fragile material resulting from transportation and exposure.

Working alone, with colleagues or with NAAB to establish “fair market value” for a donation is more an art than a science. No single method suits all circumstances, but all have a common requirement: being well-informed about the material.

4.5 Monetary Evaluation of Political Papers (Guy Dinel)

NAAB has appraised a variety of political papers. This session discussed the contexts related to the creation and acquisition of political papers, giving particular emphasis to elements which could influence monetary valuation. In particular, the session considered how appraisers, in their appraisal reports, summarize descriptions, establish significance and justify fair market values.

Speaker: **Guy Dinel**, Assistant to the General Secretary and Head of the Archives Department, Laval University

Guy Dinel explained that political papers may be defined as documents produced and received by someone who is tied to political parties or is politically active. There are some limitations because of laws that distinguish between public and private activities, or relate to financial rules. Political archives mainly come from political parties, political organizers, high office-holders, and politicians with parliamentary experience. Dinel discussed some of the characteristics of these sources. With political party archives one expects documents related to party structure, political influence, resources, advertising, membership, political philosophy, party leadership and elections. With political organizers, there should be documents relating to biography, professional career, and political influence. With the latter, there might be papers on party strategies, financing, political issues and principles, and local and national electoral campaign organization. With office-holders or civil servants, the papers should include documents relating to biography, professional life, and moments of political influence.

The University of Laval has printed guides to assist people wishing to make donations of political papers. They have categorized the papers that might be in a large fonds of political papers. This provides a structure to the finding aid, and also provides a checklist of what has been received and what might be missing or expected.

Dinel then outlined some of the features of political papers that are important in assessing fair market value. The archivist or the appraiser should look for age of documents, rarity, and state of conservation. As well, consider how the papers complement what is already in the institution, or how diverse or representative the papers might be. As well, give some thought to the legal issues and whether the donor is entitled to a tax receipt. It is necessary to confirm the provenance of the papers, and to consider what is original or unusual, as opposed to printed and Xeroxed documents that might be found elsewhere. Look at the current market situation, the format of the documents, and whether there are restrictions on research or copying. Consider potential markets or scenarios in which money could be raised to purchase such a collection. Evaluate fair market value by media, series or natural groupings, such as boxes. Add values for documents and files that have special market interest, known market values or autograph interest. Sometimes, a series or the whole will be found to be particularly complete and have enhanced value. Compare the values of one series against those assigned to other series to ensure your criteria have been uniformly applied. Sometimes you will need to evaluate varied media. Political parties sometimes produce films or television commercials, for example, or print important policy documents which might have life beyond the party. Dinel suggested some prices that might be considered benchmarks when appraising different materials. He also gave examples of collections in each of the categories of political papers he had noted at the outset, and internal appraisal values for these examples.

SECTION 5: KEYNOTE SPEAKER

5.1 *Appraisal Challenges Remain* (Ian E. Wilson)

Ian E. Wilson, Librarian and Archivist of Canada, one of the first expert members of the Appraisal Committee which preceded NAAB, saw the renewal of NAAB as an exciting opportunity. Another generation can get fully engaged in appraisals. Clearly, knowledge is being spread to other institutions across the country.

This presentation will discuss NAAB, its rationale, and its approach to appraisals. The recent appraisal of Bob Gordon's papers (one of NAAB's founding members) revived memories. The meticulous, intensely practical Gordon was committed to building Canada's archival holdings. In one exercise he developed a chart of appraisal values based on known prices, media and a document's level of significance. With a

coded numbering system he could calculate dollar amounts. Gordon approached appraisal as a system. He wasn't always consistent in his use of values. Things being purchased by the Public Archives had lower value than things donated. In his retirement, Gordon became a dealer in archival documents, and an expert on autographs.

In the late 1960's, Bob Gordon was trying to find a way to ensure a rigorous appraisal process for a variety of materials given to archives, which could pass muster with the forerunners of CRA and the Canadian Cultural Property Export Review Board (CCPERB). Earlier, receipts were not issued for donations.

Proceedings of the discussion, "Donors, Tax Men and Archivists," are available on-line. At the time of the conference, the Public Archives was exploring the legal and revenue situations related to donations in kind. He wanted a practical way for determining market values for donations. When, in 1970, Wilf Smith, Bob's boss, wrote to National Revenue for clarification of its policies, it suggested that most donations in kind were "accumulated junk." Bob Gordon met with officials at National Revenue and they agreed that a system based on principles and integrity, and avoiding bad practices, could determine credible fair market values. This might be a team of historians and archivists, three out of five agreeing. Institutions would pay the expenses and fixed fees. Donations must take place, and without conditions. Institutions would need to make adjustments. There should be no market speculation. The Appraisal Committee should see materials to appraise them.

There were debates between dealers and archivists tempered by an understanding of their historic and archival contexts. Appraisers are not generally accustomed to being questioned. Before some auctions, Public Archives and others discussed who should bid on an item (and how much they would bid). Archivists did not think taxpayer dollars should compete against taxpayer dollars. Dealers, such as Bernard Amtmann, questioned the practice.

NAAB has made an essential contribution to the Canadian archival heritage, but challenges remain. With respect to political papers, we need more consistency and fewer discrepancies. Prime Minister's papers do not go on the national market. NAAB has relied on a series of precedents, often tenuous and unchanging. NAAB has not had access to information about sales of large collections to institutions. Provincial premiers have different attitudes about the donation of their papers.

A second continuing challenge relates to audio-visual materials. CCPERB has not allowed intellectual rights to be reflected in fair market value for such donations. This flies in the face of common sense, and goes against any idea of open and fair market. Rights need to be associated with audiovisual materials, and must form part of its fair market value. CCPERB, NAAB and CCA and the institutions need to resolve this issue.

A third challenge relates to whether the whole can be worth more than the sum of its parts. In many major collections, such as the Hudson's Bay Company, with a full record keeping system intact and maintained, the whole is worth more, as Bob Gordon clearly demonstrated in a research paper.

Bernard Amtmann, a manuscripts and books dealer, said that "in our hands the material is alive and a treasured reality; it loses its life in the institutional embrace". He saw book dealers as more impassioned than archivists. Archivists should be passionate about the creation of treasures open to all Canadians.

SECTION 6: THEMATIC WORKSHOPS 2

6.1 *Large Digital Collections* (Stephen Lunsford and Leslie Mobbs)

This workshop elaborated on an approach to the monetary appraisal of digital records based on the criteria traditionally used for archival records and in reference to issues anticipated by the Vancouver City Archives in their acquisition of records of the VANOC (the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games). Discussions focused on issues in establishing a fair market value for digital records. The speakers spoke at four sessions, but the proceedings of those sessions are summarized here.

Speakers: **Stephen Lunsford**, Stephen C. Lunsford Books
 Leslie Mobbs, City Archivist and Director of Records and Archives, City of Vancouver

Stephen Lunsford noted that the discussion was a continuation of an earlier discussion, which would conclude with the Media Session 7.4. The session was intended to address a number of topics regarding the appraisal of digital records, changes in the marketplace, and other issues that were pertinent to appraisers. Issues will be considered from the archivist's point of view, using the VANOC archives as a focal point. Media Session 7.1 will take a retrospective look at the traditional marketplace, and how it relates to issues raised by Leslie Mobbs, particularly regarding digital archives. Session 1C will consider different types of media, and how they were being treated in the current marketplace. Subsequent sessions will consider market forces affecting the evaluation of digital archives, and the development of some practical guidelines for the appraisal of digital archives.

Lunsford offered comments regarding Leslie Mobbs' professional background, noting that he was currently the City Archivist and Director of Records and Archives for the City of Vancouver.

Leslie Mobbs acknowledged that the series of facilitated discussions would be a voyage of discovery, and offered some background information relative to the appraisal of digital media, using the VANOC archives as an example. The session will primarily focus on digital records, not transactional databases.

Terry Cook's article in *Archivaria* (a journal of the Association of Canadian Archivists) regarding the appraisal of digital databases in the field of survey data, should be read. Unfortunately, the confidentiality of appraisals, has limited appraiser's ability to share their knowledge and information. There is currently minimal guidance available to appraisers regarding the appraisal of digital records. An article from Sweden provides information regarding the annual ongoing cost per-gigabyte for processing records.

The donation of the VANOC fonds to the City of Vancouver Archives is still being negotiated, and will not be a donation for tax purposes. (This pending donation is being used as an example for discussion purposes only.) The donation from VANOC will include: operational records in an electronic document management system, including emails, reports, databases, still images, maps, and plans. There will be information appended to the core repository that is not digital, and it is currently uncertain what the quantity of the records will be. Administrative records will be maintained for some time and then likely destroyed, as they will not form part of the archival collection (since they are not of archival value).

Authentication, relevancy, condition, extent, archival value and monetary values can be recognized as criteria when considering archives. David Walden's 1980 article in *Archivaria* related to archival values should be considered.

Regarding "Authentication", it is important to consider whether the digital material matches its description. The original source must also be considered, as digital records can be copied and replicated

with great ease. An archivist needs to assess whether the digital material has been altered. Some photographic collections may be missing some items, which may have been removed for other purposes. It is important to consider the integrity of the information, and whether the data is accessible. The digital archivist will examine the state of the meta-data, to determine if anything is missing.

It is anticipated that the VANOC fonds will be authentic since the chain of custody between VANOC and the City Archives will be unbroken. There may, however, be questions. Some records such as digital photographs have been assembled, for instance. They might be a “collection” of images from many sources or they might be commissioned by VANOC. Digital archives, which are only “machine readable”, can be voluminous and cumbersome to review.

Archivists need to consider whether the material fits the archives’ mandate, and whether they can preserve the records (digital or otherwise). The archives should have both the mandate and the means to acquire, preserve and make available digital records. The Vancouver City Archives will consider whether it has the resources required to acquire, maintain and use the VANOC fonds.

With respect to “Condition”, the archives needs to consider the reliability of digital records. Archivists need to think “long-term” and find ways to keep the pertinent software current, especially in light of shorter software cycles. Have the records been migrated from their original content? Do the records require manipulation to be usable? Are they encrypted? What costs are anticipated to maintain them? The Swedish writers noted earlier estimated the annual archival cost to be \$13 per gigabyte, based on a five year projection. The VANOC fonds will be migrated to a Trusted Digital Repository, likely in either XML or PDF. This will ensure their long term management. There will be few issues related to the readability and reliability of the VANOC digital records.

It is important to consider the extent of the records, and whether they include software, data, extraneous files, or otherwise. Duplication is common in digital fonds, and affects a collection’s value. The archives must decide how to measure the volume of original digital records. In normal document management processes, 20 to 30 copies of a single document is not unusual. Efforts are being made with VANOC to keep duplication to a minimum. The archives needs to consider its policy regarding the inclusion of hard copies in the collection. In 1988, the City Archives of Calgary received about 180 linear feet of papers, while the Sydney Olympics extended to 10,000 boxes, in addition to digital collections.

There are various ways to define or articulate “archival value”, all highly subjective. “Research value” anticipates the potential use by scholars who can make use of the material in years to come. “Historical value” suggests the fonds documents the history of family, community or society. “Cultural value” implies that every work reflects the civilization in which it was produced.

Since the Beijing Olympics, the IOC has added a clause regarding the preservation of Olympics records. Every host city is now required to receive and set up archives as part of the host city agreement. Vancouver is therefore obliged to acquire and make available the records of the 2010 Olympics. The current ownership of the records is shared between the International Olympic Committee and the hosting Olympic Committee.

The “monetary value” or fair market value is almost impossible to determine for digital records but comparative costs may be useful. For instance, one could compare digital photographs to those available commercially in a stock library. The cost of production, future revenue generation, and replacement costs are all approaches that have been considered. In conjunction with other approaches, NAAB has factored replacement costs into the monetary appraisal of audiovisual materials and digital fonds. All approaches to value need to be considered, in an evolving marketplace.

As well, we need to consider maintenance and processing costs of records over time. Sometimes, it is possible to download digital text, film, images, video and audio media for free. As such, the fair market value is no longer just the cost of an item or artifact, but also the cost of maintaining and guaranteeing the archive. It is difficult to determine fair market value without determining what the market is. One option for determining value might be to determine the cost of maintaining an item.

It can be difficult to determine “what you’re buying” when purchasing digital media. Once digital media is available online, the “special-ness” of the original copy is lost. Perhaps what you are acquiring is access to the digital object, such as the right to listen to or read it. The artifactual nature of some items collected can change. Some novels have video and sound components which are now downloadable off the internet. It is important to note that a “Word” file records each key stroke, while text editors do not. As an appraiser, when a “Word” file of an author’s manuscript is reviewed, there may be a significant amount of information in the file that is not available in the print version.

The following points were raised in discussion (*the speaker’s comments are identified in italics*).

What is the archival boundary and where does it reside? In documents that don’t exist, in media that can be seen, or in the whole database? For example, collaboration systems use objects that link objects. Are you going to collect process information on how VANOC works?

We keep thinking about a paper-based market, which is the wrong place to start. I’m wondering whether a moratorium should be placed on monetary appraisals of digital media, until guidelines have been established.

Preservation costs could be deducted from the value of an item.

With digital records, an archive ~~can not~~cannot be “stored in a box” forever. It must be maintained, for which there is a cost (but may not be FMV).

The earlier sessions discussed the concept of “authentic copies” (e.g. digital equivalents). A librarian suggested earlier that multiple copies of information kept records safe. Others however, suggested that the uniqueness of the digital record could be managed. A provocative idea raised was the aspect of intellectual property, and its value to a digital record which lacks an artifactual representation.

The role of archives in acquiring, preserving and making available digital records needs to be considered. There are a number of massive initiatives underway internationally. For instance, agreements have been established by Google with various libraries to digitize and enable access to electronic information. Without the physical record or object, what value is there to images or moving images, if you don’t own the intellectual property? If there is no artifactual value, what are you collecting? Are archives too attached to physical documents and is this keeping us from understanding the value of digital records, i.e. in the licensing or providing of access to them?

The following points were raised in discussion (*the speaker’s comments are identified in italics*).

Part of accessing data, is having the equipment to do so.

Not only should we have a mandate to collect something, we should have the means to preserve something and make it available.

Are we talking about anonymity or authorship? When we talk about intellectual property, it is important to consider cultural productions with no identified author.

The intent isn’t to erase authorship, but to recognize the value of the intellectual property in its fair market value.

I see a disk, kept in a vault. This is a preservation issue, as the actual object seems to be fairly organic. *Digital media does not have to be kept on a diskette. I think we're talking about digitized information, regardless of the physical entity it's captured in.*

My institution values intellectual property rights. There are people involved in appraisals who don't give value to intellectual property. If an agreement includes intellectual value, it could be valued higher. *Certification is for the value of the physical property only. It is currently just physical property not intellectual property, which is only eligible for a charitable receipt.*

Intellectual property is bound differently than with other media. It has been processed in a way that did not exist previously. For example, Radiohead recently agreed to make available the downloads of their newest recordings, for a donation. People paid a broad range of prices based on what they felt it was worth, from \$0 to more than twice what it would cost on CD. They recorded 3 million website hits, in a matter of a few hours and made over \$10M in a weekend. Through this process, they provided access to their music; essentially they waived their intellectual property, but did not give it away. The monetary evaluation of digital records needs to be examined.

Options for revenue generation aside from buying and selling need to be considered.

Some artists try to decommoify art and take it from physicality to performance. In the Radiohead example, they did not enable the reproduction of their music they only enabled its download.

Library and Archives Canada is considered by some to be a repository of public rights. Intellectual property rights may be the only value attached to digital media. If digital records are recognized as a commodity, then condition needs to be considered. Likewise, a painting in poor condition needs to be stabilized.

Condition is another quality that affects price. What is the digital equivalent?

When discussing fair market value, the "condition" of digital records could be considered equivalent to the cost of maintaining them. We are looking at solutions such as we cannot define a market for electronic records. Perhaps, we should look at art galleries where they are buying electronic art.

Do we diminish the value of a photo because it's on nitrate stock, and because it costs more to preserve? Similarly, do we diminish the value of digital media? If the only photograph of a rare instance is on nitrate stock is it worth less? The other aspect to consider is the cost of production. What did it cost to create the Enterprise Content Management (ECM) suite of objects? How do you value the function that created the record?

Someone valued the creation of digital records, for the ECM suite of objects. The archive is valued at \$500,000 today, although a long term value can be quite different.

If you want a negative from a digital image, there is a cost. Now that studios have gone digital, the cost of creating output is still there. There was a sale of newsreels, which was broadly debated, as the media was nitrate and costly to maintain.

The report suggested that the nitrate film would need to be transferred, and therefore its value was reduced. The value is dependent on the medium. It can quickly turn to a non-valued situation, due to maintenance costs. It's important to consider the content whether it's worth acquiring for the institution.

How do you prove authenticity through new methodologies?

Unless something has value, efforts wouldn't be made to spend money to acquire it. Consideration is needed regarding revenue streams.

Architectural documents could be archived and provided in digital format. If a printed copy is provided by the architect, and stamped "authentic copy", it would be appraised differently than its digital version.

The notion that a paper version will be more valuable in the future is untrue.

There can be duplicate digital records. Emails are easy to distribute. How can you pinpoint an original version?

If you have a good records management system, you should identify items of value, and retain them for archival purposes. The variation in duplication needs to be considered. The management system may be able to pinpoint the final version of a document. There may be a value on draft versions of a document. The sophistication of a record keeping system will determine the value of drafts and documents contained therein. Most organizations aren't at that level.

Context is important. There is also a preservation issue relative to performance that needs to be considered.

A digital file could be multi-faceted as acoustic properties are included. This could be impacted through migration.

Electronic management systems provide a lot of solutions and problems. In a good system, a central repository will retain one copy with links providing access to it. Versions of the original copy could subsequently be created. There are difficulties associated with separating digital objects from their transient containers. It is important when discussing digital archives to consider the object itself. Whether it is on a disk, DVD or otherwise is inconsequential.

We've returned to the notion that we're dealing with a new thing. The traditional marketplace hasn't previously had an opportunity to collect digital archives. The models we use for collecting nitrate photographs are based on having artifacts. We need to put a value on the digital object. Production costs also need to be examined. We're stuck with appraisals in a marketplace defined by legislation and tax benefits, not the buying and selling of goods.

6.2 Relationships to Archival Appraisals (Cheryl Avery and Burton Glendenning)

This session reviewed what the institution does before a monetary appraiser hits the scene. The way in which records are arranged, described and housed can affect the results of a monetary appraisal. But more than that, it is a requirement that archival appraisal precedes monetary appraisal. Monetary appraisers should not be appraising what the archivist thinks is “junk”.

Moderator: **Fred Farrell**, Manager, Private Sector Records, Provincial Archives of New Brunswick and CCA Board Member

Speakers: **Cheryl Avery**, Archivist, University of Saskatchewan Archives
Burton Glendenning, Archivist, NAAB Board Member

Fred Farrell suggested that the monetary appraisal process set archivists and appraisers on a collision course. Archival arrangement, description, and context directly affect the work of appraisers. The two speakers at this session are qualified to speak on this relationship, as both have experience as archivists and monetary appraisers. Each has an extensive background in setting dollar values on archival material. Both speakers draw on a wide spectrum of interest, training and experience. Their knowledge and insights had been valuable and instructive.

Farrell noted that Burton Glendenning, during his career at the Provincial Archives, was involved with nearly every significant archival acquisition in the archives. Since his retirement he has also worked with the Provincial Archives of New Brunswick, on arranging and describing one of the more significant and diversified fonds in the country.

Farrell also noted that Cheryl Avery had served two terms as an archivist, and had been with the University of Saskatchewan Archives since 1991. She served on various committees of the Association of Canadian Archivists, was possibly the youngest member of NAAB, and was broadly recognized as a complete and knowledgeable archivist.

Cheryl Avery believes there are misconceptions regarding monetary appraisals. Some wrongly think that monetary appraisal is largely a matter of mathematics and that values can be determined by extent and multiplying by dollars. This assumes, for example, that one box of correspondence equals a known amount. If one could simply weight collections and make adjustments based on date, some think the process could be even easier. However, the appraiser must make judgments, weigh evidence, consider varied factors and make informed comparative analysis.

In some respects it is not unlike any research visit, although the scope is somewhat larger for appraisals, and often, must occur within very short time constraints. It has been a practice in western Canada to have a single annual appraisal session, where all donations in a given tax year are appraised by a NAAB team. Receiving finding aids in advance is a requirement. Although appraisers should have access to the entire collection, it is unlikely that every appraiser will look at every item. Appraisers are initially guided by the finding aids received, and which are essential in managing an effective appraisal session. If they are of poor quality, the team will not be able to do the appraisal, or the institution will need to pay the appraisal team to do work more appropriately in advance. It may also subtly affect valuation a donor receives for the collection.

A 1984 survey of resource allocators' perceptions suggested that archivists were "mousey," but also scholarly, and excellent at finding what was wanted from their holdings. An archivist's approach to physical processing and description is essential to the profession, as it is a bridge between understanding content, legal and ethical responsibilities, and the ability to mediate access to collections.

All the functions archivists bring to bear on processing a collection – appraisal, the practical incorporation of conservation, context-based description – are surely foundation to our profession. Still, Ms. Avery wondered if the profession would still receive high marks today for knowledge of their collections. There are time constraints and declining resources currently facing most archives. Are arrangement and description taking a disproportionately reduced share of our time and attention? Instead of being viewed as intellectually challenging, processing may have become a foundational activity in much the way housework is foundational: a bit of a chore, repetitive, and is best hired out if possible.

Appraisers have voiced some common requests: provide aggregate data on the number of photos in a collection. Take the time to properly document extent measurements for moving audio and visual formats, and similarly, take time to identify maps, architectural plans or artwork in the collection. Dates,

too, help identify gaps in a collection. More seriously, *archival* appraisal is essential and must be done prior to a monetary appraisal.

Ms. Avery recalled being given a collection to appraise which was neither noted on the appraisal session agenda nor accompanied by a guide, with the instruction that it would likely be culled by one-third to one-quarter following its assessment. That may be an extreme case, but so is appraisal which ends at acquisition. Archivists may be “mousey” but passive, the profession is not. It is false to assume archivists are not active in terms of the effect of appraisal and sometimes, arrangement; or to assume we have no need to impart something of our own ethical or legal responsibilities onto management of our collections. Failure to appropriately review a collection at a reasonable level of detail can result at best, in a collection rife with duplicate or unnecessary material and at worst, in privacy or other access issues being ignored.

Appraisers do need to be fully aware of any restrictions within a collection. When the appraisal team is opening envelopes to read correspondence, or asking questions about access or use based on the content of a collection, they cannot help but wonder just how well the institution knows what they have accepted or what their real responsibilities are.

Archivists know what a guide to a well-prepared collection should look like. It is clearly the result of an attempt not only to understand the content of the records, but the creator of those records – the context of the record creation, intent, and organization if indeed one existed. The description is similarly a clear attempt to mediate that understanding for researchers. With this in mind, one issue in particular is of some concern: an increasing tendency to simply list material without any sense of its overall structure or context. Collections without original order do not have an original order for us to retain. Ms. Avery suggested there was nothing wrong with physically, or intellectually, bringing together within a series or other structure if through careful analysis we know it is reasonable to do so. However she criticized the idea that a string of file titles, unadorned through series or description, constitutes a finding aid.

A colleague recently noted to Ms. Avery how frustrating it was to have seen valuable documentation at the initial appraisal and acquisition stage, only to be unable to find it once the collection had been processed. She suggested that was rather counter-intuitive – but more common than many would like to admit.

Burton Glendenning, NAAB Board Member, reported that one of the fonds he was working on belonged to a contemporary of John Diefenbaker. A donor may offer something which falls outside the institution’s mandate. If however it was accepted by the institution, consideration is needed regarding why it was accepted. If the acquisition was an item missing from a series, the item could have a higher monetary value.

Appraisers must have an understanding of the item’s context (e.g. it could be a missing ledger). A small acquisition will have value, based on the context and the content. The appraiser can see the content, but the archivist must provide information regarding its context. An appraiser can not know it all.

Archivists and appraisers have seen account books of all types. It is usually easy to put a fair market value on them, but there are exceptions. One example was an examination of some day books created by a small shipbuilding firm (Cunard) in Halifax. The archivist needed to learn as much as possible about them, and recognized what made them important archival records. The archives were with Liverpool University in 1973 and covered the period from 1840 to 1845, however most of the manuscript material was from a company incorporated in the 1870’s. This small donation of account books, took on new meaning, when it was learned that the account books, ledgers, etc. of the company were destroyed when the firm’s north pier and other buildings were demolished in 1911 and 1917. The account books were now recognized as the first records of a large international business, which still operates today.

An appraiser can do the research for the archives (and bill them accordingly). An archivist typically conducts an archival appraisal of business records acquired from a large company. The donor would be asked about the completeness of the donation, and would also be questioned: whether some documents had been destroyed, if more documents could be discovered, if the business had shut down, and what the political, personal and business connections of the documents' creator were. These answers must be recorded for the monetary appraiser.

The appraiser must know how extensive or complete a donation is. If a collection is complete, it may be appraised more generously, than if more documents existed elsewhere. Photographic proof prints, and carbon copies are seen differently.

Archivists may select documents deemed to be of permanent value or otherwise. If a fonds includes documents that will be destroyed, the archivists could be putting the appraiser in an ethical bind. Material which the archivists think is junk and will be removed later, may have a real market value. Items that are going to be weeded out of a collection should never be included in the monetary appraisal, as an appraiser should never put a monetary value on paper destined for the shredder.

Each discreet item in a small fonds can be examined, which can not occur in the appraisal of a large fonds. Appraisers will work from a finding aid to select material to be examined. Although this is not a perfect system, an appraiser could otherwise be paid to look at hundreds of documents.

Original order is important. Sometimes archivists may use the "original order commandment" as an excuse to avoid work. An organization offered to donate their ledgers, which arrived in 1,400 boxes, in no order at all. The records of a deceased mayor, lawyer, and corporate lawyer were donated, after they had been dumped out by thieves during a robbery. Another collection of documents donated by a bankrupt company was moved twice, before the institution arrived to pick up 500-600 cubic feet of stacked papers. As the institution's van would only hold 200 cubic feet, an "instant appraisal" was done, which left 400 cubic feet of papers behind. Clearly, in these examples, the records were not in their original order.

In the appraisal of a large fonds, only a sample can be examined. Appraisers must select the sample to be examined, not the institution. Working from a finding aid, appraisers will select the files, boxes, or series to be examined. The better the finding aid, the better the appraisal, and the better the donor is served.

A description could alter the selection of the samples for examination. For example, there was a collection of Christmas cards hidden within a selection of a donor's personal papers. Decisions to "keep or toss" such items are based on a number of factors, and are at the institution's discretion. The sender, design, uniqueness of a card can increase its value.

A large fonds was appraised which contained a number of Christmas cards. Buried in the collection, there were some small cards made especially for the recipient, by a well-known artist, which had a significantly higher value. In the collection there was a brilliant watercolor card, painted by a nationally renowned artist, which unfolded into a one-foot square. Several cards included a firmly affixed Karsh print – these were valued significantly higher. The cards in this collection would not likely have been found by an appraiser if it was merely described as a box of Christmas cards.

Newspaper clippings typically have a small value, but may provide information regarding the tracking of a public life. They may also include some important annotations.

For example, a newspaper clipping was included in a donor's collection, which relayed the donor's start in politics, and also included some handwritten notes which contradicted an old rumor. (The column

suggested that Mackenzie King had erroneously asked someone to run in a by-election and to be a cabinet minister, following confusion about the given and family names of whom he intended to ask.) Along the edge of the newspaper clipping (published 17 years after his entry into politics) the person being written about, had handwritten “This story is not true. McNair asked me priorly if I would run. King never knew people by first names”. This was one of the first rebuttals of this popular story. This clipping, because of the notation on the edge, became a valued resource document. There is a slim chance the appraiser would have located this, as the fonds consisted of 24 metres of documents, of all types and media. The box of clippings would probably not have been selected for closer examination, particularly if described as “clippings”.

It is up to the archivist to note in a finding aid when newspaper clippings are annotated. Examples of types of notes to be included with the finding aid are endless. If known, an archivist should identify the writers of correspondence, by more than their name, where applicable. For example, letters contained in a file of letters titled “John Smythe” were signed by “Jackie”. It may not have indicated to the appraiser that an examination was necessary; however the archivist recognized that “Jackie” was a president of a prestigious association.

Finding aids should have introductions, and should include details that became evident in the arrangement process.

Lastly, it is important to describe documents in units that make sense to the medium. Referencing two metres of film is of no help to a monetary appraiser. Photos and items can be counted, even if the number must be estimated from a sample count.

A measurement of architectural drawings in metres is also not helpful. A count of the number of sheets needs to be provided, together with descriptions of the characteristics of the drawing, the media, subject and other details. Modern plans are usually in uniform sizes; however this was not always the case. Likewise, a count of oral history recordings or interviews should be described in hours or the equivalent in transcription pages, rather than the number of cassettes. It is the information being appraised, not the physical object.

References to containers or boxes are misleading. Boxes come in different sizes and appraisers need to know what size to expect. A box may be full or partially full. Archives have the care, custody and control of documents, but are also in the business of making information available to patrons. Archivists should make information available to the appraisers, as appraisers are not the researchers.

The following points were raised in discussion (*the speaker’s comments are identified in italics*).

I did a large appraisal. After I sent my findings in, they asked me what the weaknesses were. I thought I’d submitted a fair assessment.

A weakness could include a “gap” in the records. If it is a collection where the most essential element of the individual’s life is missing, it should be noted.

I’m an archivist and have found it best to not get involved with the donors.

Do not suggest to a donor what the appraisal value could be. The archivist should remain at a distance from this. One of the benefits of using NAAB is that it keeps the archives at arms length from the monetary appraisal.

What are the impacts of access restrictions?

Impacts would be unique to every situation. Extremely lengthy restrictions may affect value, which is based on current fair market prices: if records will be closed and inaccessible for 100 years, that would certainly factor into a monetary appraisal. Archivists should consider the terminology they use to indicate restrictions and closures. “Permanently Closed” for example – surely this means the material can never be used, in which case why is it retained at all.

6.3 Constructing a Successful Monetary Archival Appraisal for Cultural Property Tax Certification (Sonia M. Lismer)

The CCPERB in over 15 years of determining the fair market value of cultural property being donated to designated institutions has developed specific requirements for the preparation of monetary appraisal reports. In this session, participants discussed the key building blocks not to be missed in the construction of a clearly laid out and justified appraisal report.

Moderator: **Marcel Caya**, Professor, History Department, Université du Québec à Montréal and Chair, NAAB

Speaker: **Sonia M. Lismer**, Manager, Movable Cultural Property Directorate, Canadian Heritage/Assistant Secretary to CCPERB

Marcel Caya introduced Sonia Lismer and reviewed her professional background.

Sonia M. Lismer referred participants to the handout titled *Constructing a Successful Monetary Archival Appraisal for Cultural Property Tax Certification*. To be successful, an appraisal should contain three parts: an Executive Summary, an Item Description and a Value Description.

When CCPERB was formed in 1977, its mandate with respect to the certification of cultural property for income tax purposes was limited to determining whether cultural property being donated or sold to designated institutions met the criteria of “outstanding significance and national importance”. In 1991, the responsibility for determining the fair market value of property that met these criteria was devolved from what was then Revenue Canada (now Canada Revenue Agency or CRA) to CCPERB. Prior to 1990, the responsibility for determining fair market value rested with Revenue Canada, with recommendations made on occasion by the Board. Since 1991, CCPERB has relied on monetary appraisals submitted with applications for certification to assist it in making determinations of fair market value. Each year, CCPERB holds four meetings and reviews on average 1,000 applications for as many as 15,000 objects with a total value exceeding \$100 million.

NAAB has been conducting monetary appraisals for income tax purposes since the early 1970’s, in fact prior to the entry into force of the *Cultural Property Export and Import Act*. NAAB was very much a pioneer in the development of an appraisal methodology for archival material and that process continues to evolve.

When the Board inherited the responsibility to determine fair market value for property, the monetary appraisals it initially received consisted of little more than a description of the subject property and the estimated value. The Board quickly realized that there was little content upon which to properly assess whether the estimated values were an accurate reflection of market conditions around the time of the donation. Some donations, mostly works of art, appeared to be over-evaluated. Upon further analysis, CCPERB needed to reduce the estimated values of many donations simply because justification from the marketplace was not being provided. It therefore established guidelines for the presentation of appraisals and those guidelines continue to evolve to reflect its needs so that it can carry out its responsibilities with

due diligence. Where the CCPERB makes a determination of fair market value, that value holds for 2 years and may not be overturned by CRA. The Board may, in exercising its mandate, consult experts to ensure a certain level of rigor in the determination of fair market value. Tax receipts issued in the regular charitable regime are subject to the rules of CRA.

Over the past several years, the Board has been seeing more diversity in the kinds of archival material being donated within a fonds, particularly where audiovisual material is included. This has meant an additional challenge both for appraisers and the Board in assessing what a fair market value may be. CCPERB has looked closely at appraisal methodologies used in the US and by NAAB, and has also consulted with Carman Carroll and the industry to seek ways of developing methodologies for appraising a diversity of material. Guidelines specific to the type of material being appraised therefore continue to be developed to assist appraisers and the Board.

At any one of its four meetings a year, the Board may review up to 500 applications for certification. These applications, printed in some 20-25 volumes, must be studied by each Board member prior to the meeting. It is therefore important that applications are presented as clearly and as concisely as possible. CCPERB continues to explore ways to streamline its process, gain clearer information from institutions, and to encourage dialogue between institutions and the donors and with the CCPERB Secretariat. Efforts are proceeding towards the development of an electronic on-line submission of applications for certification. This will cut redundancy and minimize errors and contradictions in information provided by the institution and appraisers and result in a more streamlined and efficient application process.

The Report

It goes without saying that an appraisal should be laid out on letterhead, be typed and include an identifying header or footer as well as page numbers. Each page should be initialed by the appraiser, so that is clear where the report begins and where it ends. Appraisal reports must also be well-organized and the contents clearly presented, hence the importance of presenting a summary of the property being appraised, a clear item by item description of the components and a logically presented value justification.

The first section of an appraisal report should provide an overview of what the reader can expect in reading the full appraisal report. Called the Executive Summary for the purposes of this presentation, the appraisal should clearly identify the material being appraised, and include all the information listed in the handout: report date, client information, purpose of the appraisal, summary description, effective date of the appraisal, etc. When a fonds is an accrual, this should be clearly stated by the appraiser.

As NAAB only prepares appraisals for property that has already been donated to an institution, its appraisal reports are effective to the date of donation and should therefore consider, wherever possible, market factors around the time of the donation. The three approaches to value that are endorsed by CCPERB are: the sales comparison approach, the cost approach, and the reasoned justification approach. For example, a fonds may contain multiple elements, some of which are marketable and some not. As such, the appraiser may need to use a combination of these approaches to appraise the separate elements.

The Executive Summary should also include the total appraised value. While the disposition may include intellectual property rights, CCPERB determines the fair market value of the physical property only. The evaluation of intellectual property requires the use of different and more complex approaches to value. Should the Board be faced with situations where physical property and intellectual property are inextricably linked for purposes of establishing monetary value, it will study this issue further. In the meantime, the recipient institution may seek an appraisal for the intellectual property portion of the donation, and based on that appraisal, issue a regular charitable tax receipt.

NAAB has made considerable headway in developing an appraisal report format that has alleviated some of the challenges facing the Board. The appraiser's attestation offers an opportunity for the appraiser to confirm the facts presented, disclose any interest in the appraised property, identify any appraisal assistance used, and to confirm the appraisal was prepared at an arms' length. It is important to include a short summary of the appraiser's qualifications.

The Item Description section of the appraisal report should, wherever possible, include a full description and the estimated value of each object. For much archival material, for example, literary fonds or audiovisual material, the appraiser needs to provide as full a description as possible of each component within the fonds, making sure to indicate, as appropriate, the size and/or extent of each component, as well as a list of the series and sub-series and the accompanying estimated values. CCPERB recognizes that in some cases, a premium may be appropriate, based on completeness, however, this has to be properly justified in the Value Justification section of the report.

The Value Justification section is the most critical component of the appraisal report. The Board's responsibility is to reflect market conditions around the time of the donation. It needs to know whether there is a market for the material or any portion thereof. Where there is no market for the material, this should be clearly stated and a reasoned justification provided. The appraiser may as part of this justification identify a collecting institution as the most appropriate hypothetical market.

Access by NAAB appraisers to previous NAAB appraisals of related material can only help reinforce the methodologies already in place for appraising archival material and bolster the development of well-justified appraisals. The Board recognizes the wealth of expertise that NAAB has developed over 40 years and its important contribution to the development of methodologies for appraising archival and related material. The one challenge has been to get appraisers to articulate, in their written reports, the rationale they used to arrive at their estimated value. The Board has noted that this is improving and is appreciative of the efforts that are being made in this direction as the information that is provided in the appraisal reports then gives greater weight and validation to the determination process.

The following points were raised in discussion (*the speaker's comments are identified in italics*).

Some institutions hire appraisers. What if a NAAB appraisal is valued over \$20,000?

Only one appraisal is still required as NAAB appraisals are conducted by a committee of experts. Otherwise, two independent appraisals would be required for donations exceeding \$20,000.

Has the Board ever determined a higher fair market value?

Yes. For example, the Board could be faced with two appraisals, one being significantly higher than the other. If it assesses that the higher of the appraisers provides a more accurate justification of value based on appropriate market indicators, it might determine that the higher of the two appraisals represents the fair market value.

SECTION 7: DOCUMENT SESSIONS 2

7.1 *Film and Audio Visual* (Mark Epp and Richard Lohead)

Many issues are raised in appraisal of film and other audio-visual materials. This session considered the question: "How does one assess which values are important and how does one approach issues of volume, quality, origin, significance, author, subject, producer and wider contexts?"

Moderator: **Ken Larose**, Vice Chair, NAAB
Speakers: **Mark Epp**, Senior Coordinator, Archives of Ontario
Richard Lohead, Manager, Film/Broadcasting, Library and Archives Canada

Mark Epp described the preparations which the Archives of Ontario made when preparing for a monetary appraisal by NAAB, with a view to making an application to CCPERB.

The first step was an archival appraisal report prepared for archival purposes, but useful for monetary appraisals as well. Using the example of donations of moving images, such as records of a television station, he noted that the archivist would note the significance and rarity of early Canadian television, or comment on the supporting textual documents, such as film production files and scripts. He would also comment on the completeness, the comprehensiveness and physical condition of the donation. It would be important to notice the relationship of the donation to existing collections or to the collections policy of the institution.

The second step is to prepare a signed donation agreement. This might require negotiation, particularly if some documents were not accepted. The agreement transfers ownership of the fonds from the donor to the archives, stipulates any access restrictions, and clarifies what, including copyright ownership, is transferred to the archives.

Next the archives prepare an inventory or finding aid. The archives must complete the selection and culling of the fonds before the monetary appraisal is undertaken. While the archival appraisal report provides some indication of the context of creation and contents of the fonds, an inventory for moving image archives must be created at the item level. This is necessary so that users can access the items, but it is also necessary for the monetary appraisal, and ensures that no significant items are overlooked by NAAB. At the Archives of Ontario we identify format of the film or video; the length of time and footage within component parts as well as for the total donation. We will note physical condition, the existence or lack of sound, and other physical details. We note the access restrictions, the copyright ownership, draw attention to the significant, the rare or the unique. How complete is the fonds? Is it an accrual? Does the donation contain elements that are not moving images? Epp noted there was a tension in the archival descriptions, as the archivist must stress the parts of the fonds with market value.

The institution also needs to provide facilities for the monetary appraisers. With moving images, it must have the proper equipment for reviewing content. The archives must have a long-term strategy for making its images accessible and this may require reformatting of the media.

The archives incur acquisition expenses with each donation. Some costs are tied to archival appraisal, preparing detailed inventories, and preparing for the monetary appraisal. Long-term costs relate to archival supplies, storage facilities, and the purchase of equipment for playback or for reformatting.

For more details on these issues see Sam Kula, *Appraising Moving Images* (2002) Brock Silversides, *Preparing for Monetary Appraisals* (2004) and the CCPERB webpage.

Richard Lohead discussed the relationship between film history and archives. The call for archiving film occurred early but no action was taken then. People such as Boleslaw Matuszewski and Terry Ramsaye were considered to be tied to popular entertainment rather than to the official record. It was too costly to preserve film, and the nitrate format was considered to dangerous to preserve. However, as film and television became major industries, films were seen as both commercial and cultural. The industry is heavily subsidized, and the interests of the industry were determined not by archival tax credits but by markets, especially if old programs can be reused on specialty channels.

Before the introduction of tax incentives in the late 1960's, film, whether from private or public companies, tended to be placed in institutions on deposit. The standards for preservation and for formats were determined by the industry not by archival needs. Films were at risk if they were not preserved, but archives could not afford to pay commercial value. A partnership between archives and producers provided a working arrangement. Archives provided free storage in exchange for the right to preserve and to show films. The films were protected, but the donors retained ownership with a view to potential commercial markets. Archives were spending money to preserve records they did not own, and which donors could remove on short notice. Archives used other means to acquire film. Some were purchased. Some Telefilm agreements required a mandatory deposit in archives. The legal deposit requirement saved some copies. As well, some donors requested copies of the films donated.

By the early 1990's film-makers were donating records to archives in exchange for tax credits. Archives now gained ownership of large collections that had been deposited earlier, and also acquired new films. With the application of commercial benchmarks, the evaluation of film media seemed comparatively high, and there was a demand for specific guidelines, notably from CCPERB, which published a guideline for audio visual and related records in 2000.

The tax credit approach has been effective in safeguarding our audio-visual heritage. Issues remain about the means for strengthening this approach. Some have debated whether the tax credit incentive is fair. There is some concern about the comfort level of archives, revenue officials and public officials with high evaluations for film with potential commercial values. Some have suggested that appraisers should be certified, and that tax credit brokers should be regulated. We need to find ways to strengthen the appraisal process. Some think we need clearer deeds of gift, the elimination of private appraisals, and a pay structure for appraisers that recognizes the high value of audio-visual donations.

There was some discussion of other continuing questions. How clearly can we determine provenance? What are the reasonable approaches to intellectual property, copyright issues, and intangible elements in cultural property? What is the impact of digital technology and ubiquity? With respect to market more directly, we might wonder about how to define market and how to track past sales.

He then looked at the role of the archivist and of the monetary appraisers. Archivists need to be well-informed about the issues and the possibilities. They can do in-house appraisals up to \$1,000, and at the very least will choose and judge appraisers.

The workshop then considered several specific examples looking at the many considerations that an appraiser would make.

7.2 *Appraising Business Papers (Stephen Salmon)*

This session discussed papers of important businessmen, companies, concerns and unions specializing in commerce and manufacturing, which often told much about the wider world.

Speakers: **Stephen Salmon**, Senior Business Archivist, Library and Archives Canada

Stephen Salmon titled his presentation *Appraisal by the Ton*. Some of the largest archival fonds are from major businesses, and the records are often very extensive, over 25 metres. The appraiser of business records faces challenges because of the bulk and diversity of such fonds. The ACA pamphlet on Business Archives asks "Are our records worth anything and will anyone be willing to buy them?" Archival

records of businesses are assets. Their value is determined by factors such as their potential research worth and completeness. Since most archival institutions do not have acquisition budgets to purchase such archival records, it is possible to seek tax credits. The value of the business records relates to what has been selected and how they will be used.

Before accepting records offered, the archivist needs to do some research. How does the collection relate to your institution's mandate for acquisitions? How significant was the business geographically? What do you know about the business and its history? Does your repository have similar or complementary records?

Salmon then considered the archival retention of business records against a checklist that he has developed over the years. For business ownership, he looks for records such as stock ledgers, shareholders' lists, and minutes and reports of shareholders' meetings. With respect to management, he looks for minutes and reports of directors, annual reports, organization charts, procedure manuals, biographical data, sample training programs, and other records related to staff. Large business records should have records related to management control mechanisms, such as reports and annual budgets. There should be executive correspondence, letterbooks and diaries. There might also be reports from special consultants. With respect to finance, there should be records that relate to structures, sources of funds, taxes, and published financial statements. There are quite a few records that could relate to production operations, including reports on operations, maps, plans and photographs of plant and machinery. Also there could be machine specifications and engineering drawings, flow charts, time schedules, equipment inventories, patents and licences. Business records should also include documents related to the labour force. There might be application forms, training manuals, personnel bulletins, reports by department or job description, annual summaries on hours of work, and records related to labour costs, employee morale and union contracts, as well as more general records relating to labour relations and supervision and organization. There might be records related to research and development, including engineering reports, sales catalogues, and plans. Marketing activity is always key to large business records, and there are many records that relate to promotion, market research and organization. Big businesses are also concerned about the regulatory environment and the impact of government in different ways. In the category of community relations, he includes formal public relations, executive speeches, and correspondence with business associations, publications, company histories and oral histories.

In preparation for the monetary appraisal, the business archivist has to prepare a finding aid, write an appraisal report, and place the company or business history in context. It helps to know if similar collections exist elsewhere or within your institution.

With respect to future prospects, he believes electronic business records will not be appraised differently, but assumes that the institution will have the necessary hardware and software to support such collections.

SECTION 8: THEMATIC WORKSHOPS 3

8.1 *Appraisal Reports* (Marcel Caya)

This session explored the world of justification and an area that brings monetary appraisers into the world of Cultural Property. The group discussed the explicit comparisons between items that are comparable but rarely identical. (This was a bilingual session.)

Moderator: **Mario Robert**, Records Management and Archives Analyst, City Clerk Department, City of Montreal

Speaker: **Marcel Caya**, Professor, History Department, Université du Québec à Montreal and Chair, NAAB

Mario Robert introduced Marcel Caya, a professor in the history department of the Université du Québec à Montréal, Deputy Secretary General of the International Council of Archives, and the National Chair of NAAB.

Marcel Caya reviewed the objective of the workshop. By discussing the section of appraisal reports dealing with justification, he intended to focus on the essential component of the appraiser in determining value and in explaining how he or she arrived at those conclusions. This aspect of the work can be very frustrating for appraisers since preparing an explanation usually takes longer than doing the actual appraisal.

In order to get a framework for their considerations, appraisers need first to consider the demands articulated by the CCPERB. The CCPERB requests that “the appraisers should by all means possible, use the approach of sales comparisons in developing their appraisal report”. Appraisers for archival donations, of course, would like to use prior sales as a basis of comparison, but this is not the case most of the time. Therefore, they have to work by creating a virtual market in order to determine a possible sale price on the documents. In fact, CCPERB’s guidelines fully acknowledge that not much archival material trades in the open and unrestricted marketplace. It also acknowledges that relevance to research, even in the absence of a demonstrable market, is a valid factor influencing value.

Whatever method appraisers use, CCPERB requires them to present a reasoned justification of their determination. While defining appraisals as “informed opinions supported by facts”, they require appraisers to explain how they determined the value by stating the facts by indicating what basis was used, what precedents were considered, and what comparisons were examined.

Irrespective of the requirements of CCPERB, the main reasons for justification remain to explain which method was used, to designate the elements for which an active market may exist (collections for example), and to document and enrich the bank of precedents which appraisers will be able to consult.

The first elements of justification can be a statement about the possible existence of an identifiable market and an explanation of the reasons why the institution is the most appropriate recipient; with these elements spelled out in context, it is possible to justify why the institution would pay so much for the items if they were available on an open market. While in most appraisals, other points may be considered, these are the main ones.

A useful element of the justification process is the explanation of the qualitative differences between the comparison points that were selected. The records of a former member of the assembly or an MP offer an opportunity to explain regional differences. An appraiser can explain why the records of a person are important from a regional point of view. Perhaps the records pertain to only one region or perhaps they expand beyond.

An appraiser needs to look at similar records before calculating an average value. The character, diversity and quantity of documents need to be considered. It is also important to remember to evaluate the records and not the person (or career of the person) that created the records. However notorious the donor may be, routine records would not have the same value as those unique ones that can be attractive to collectors or bring a unique set of facts to a researcher.

An appraiser may need to evaluate a fonds section by section (or series by series). By analyzing and comparing the series it may be apparent that some have a higher value for research and potential markets.

When dealing with literary materials, to give an example, appraisers need to check autograph as well as the content, and the importance of the documents.

Sometimes as an archivist, it is important to take some distance with the restrictions imposed by CCPERB, as records presented in a series are often very different from one another even when the media are the same. Cinematographic archives have been a unique challenge because of the variety of media on which they are presented. Evaluations cannot strictly be based on “feet of film”, as they should also be evaluated on the significance of the content.

There can often be multiple drafts of literary manuscripts. There is a difference between 2,000 disorganized pages of manuscript and five successive versions of 400 page manuscripts, in which a researcher could see the evolution of the manuscript. Sometimes, it is important to go beyond the series and examine the item level, especially when evaluating prints, large photographs or even mosaics of photographs.

When assessing letters from celebrities it is necessary to consider who they are writing to, the signature and the importance of the content of the letter for research purposes.

In conclusion, the speaker noted that “archival materials that can be used for research, for illustration or exhibition tend to have more value than document which cannot”.

The following points were raised in discussion (*the speaker’s comments are identified in italics*).

How do you distinguish between restrictions that are requested and others?

Even when the restrictions are well explained, look reasonable and have helped in the acquisition of material, the market value may be lowered. If a literary figure offers to donate his or her material, but says that they cannot be viewed for 125 years, the value will be reduced as the ultimate goal is to make archives accessible.

Could an active market have a detrimental effect on the object that you want to acquire?

Appraisers read that market and try to give values that are inline with what the market would offer. This has no detrimental effect, when a donation has been made.

Sometimes letters are separated from their original fonds, for their market value. This divides the collection.

Letters are sometimes taken out. This is what we want to prevent. That is why complete collections are often valued higher. Archivists do not want donations of material where the best has been taken out, leaving only press releases and newspaper clippings.

8.2 Income Tax Law (Pamela Cross)

It is increasingly common for donors to make non-cash gifts to institutions. The tax rules can be complex and are constantly changing. This session discussed opportunities and pitfalls of donations of “in-kind” property.

Moderator: **Mark Epp**, Senior Coordinator, Archives Ontario

Speaker: **Pamela Cross**, Partner, Borden Ladner Gervais (BLG)

Mark Epp provided background information regarding Ms. Cross, and offered comments regarding her qualifications, memberships, and publications on a variety of tax matters.

Pamela Cross referenced an overhead presentation titled *Donations of In-Kind Property: Tips and Traps* noting that the session would address some key issues relative to in-kind donations. The session also intended to discuss in-kind donations from the donor's and charity's perspective, donation tax shelter arrangements, valuation issues, potential penalties, split-receipting, and special types of property people are donating.

In-kind donations can include property that is not cash, such as insurance policies, art work and collections. A gift of a service is not a transfer of property and can not be the subject of a charitable donation. Lawyers cannot request a receipt for the donations of legal services to a charity. Lawyers could however charge the charity for services provided plus GST, collect the GST, remit it to the government, then donate the net cash to the charity for a charitable receipt.

Donors can get special tax treatment for making certain types of in-kind donations. However, there are more penalties associated with in-kind donations, than with any other kind of donation.

A donor can receive a tax benefit (credit or deduction) for making a donation. A donor of in-kind property is considered to have disposed of the property for fair market value, which may be taxed as capital gains or income.

For capital property, the donor can elect that the proceeds (or the amount of donation) can be any amount within a range which is set by (at the lower end) – the greater of: whatever the donor paid for it, or anything the charity paid in exchange for the property, or the fair market value and (at the higher end) – the fair market value.

For example, if a donor transferred land (currently valued for example at \$200,000) to a charity (which the donor purchased for \$100,000), along with a \$120,000 mortgage (which the charity would take over), the elected amount could not be less than \$120,000, as this was the amount the charity was paying to relieve the donor of the mortgage. Therefore, the donor could elect any amount between \$120,000 and \$200,000 as the elected amount. If the donor elected \$120,000, for example, there would be no tax receipt issued, and the donor would have a \$20,000 capital gain to record. If the donor elected \$140,000, the tax receipt would be in the amount of \$20,000 and the capital gain would be \$40,000 (and so on).

There are special rules for certain types of donations, such as publicly traded stocks and options, ecological gifts, and certified cultural property. A donor will generally not pay capital gains taxes when donating any of these items and will be able to obtain a full tax receipt.

If a charity receives property that is not cash, and a receipt is issued for the donation, it still falls into the charity's disbursement quota. A disbursement quota is the amount a charity has to spend each year on charitable activity. In most cases, in order to operate, the charity must be able to turn the donation into cash. (This does not apply to museums, as they are governed differently.) Most charities that receive gifts of property need to be able to liquidate them, or find the cash elsewhere, as they will need to spend an amount of that gift in the next year. Charities must be able to liquidate property. They are also responsible to issue a correct tax receipt (the value on the receipt must be fair market value).

During the past 15 years, gifts in-kind in the charitable sector have resulted in the creation of a number of anti-avoidance rules. Charities are governed by the Income Tax Act (ITA). Charities aren't taxable on any assets or income, and donors receive tax receipts which they can use for beneficial tax treatment.

In the early 1990's a Tax Case illustrates the issue with donations in kind. A donor purchased a piece of art at a garage sale for \$50, which turned out to be worth \$50,000. The piece of art was donated to a

charity in return for a tax receipt for \$50,000. The CRA challenged the receipt as the donor only paid \$50 for it, however the court recognized that regardless of what the donor purchased the art for, its fair market value was still \$50,000.

A number of promoters subsequently used the court's decision in this case, as a means for financial gain. They initiated a scheme which involved the purchase of bulk art prints cheaply on donors' behalf. The donor would then donate those pieces of art to a charity. They would be individually valued, at an amount higher than the price they were purchased for. The donor never had possession of the property, was able to buy the pieces cheaply, and benefited from their higher value. The value of the tax receipt issued covered the capital gains tax triggered by the donation, and the purchase price of the item. By 2003, the CRA issued a report regarding this and other schemes, noting that 5,000 taxpayers had been reassessed, and that many more reassessments were pending.

Sometime later, the scheme evolved to include financial products. Donors were buying financial products, with limited recourse debt. For example, a donor would put \$10,000 down to purchase a financial product worth \$100,000 on paper, borrowing the remaining \$90,000 from a limited recourse debt, due 20 to 25 years later. The donor would then donate the asset to a charity, for which a \$100,000 tax receipt could be obtained. The charities that participated in these schemes ended up with debt instruments that they could not liquidate, while many donors didn't understand that their debt was still due 20 to 25 years later. The promoters of these schemes made a lot of money.

The CRA was concerned with the elaborate nature of these and other schemes, and introduced some anti-avoidance rules. Judges are not valuers, and need to rely on expert's determinations. The value of a gift in some instances could be the fair market value or the cost to the donor immediately before the gift was made. The anti-avoidance rules address two key issues: the timing of the gift, and the intent of the donor.

One of the problems created by the new anti-avoidance rules is that the value is based on the cost of the property (or some other specific factor), and not necessarily the fair market value. If the property were financed through a limited recourse debt, the debt portion would be deducted from the value. If the property was acquired and donated within three years, the donor would be limited to the actual cost paid by him and, not the fair market value. If the property were acquired with the intent to donate it, the donor must hold onto it for ten years, to be able to receive the fair market value rather than cost (this would not apply in the event of a donors' death). These rules are still being drafted, but may be retroactively applied, which could negatively affect many people.

There are several valuation issues associated with in-kind donations. The value, name and address of the appraiser, and name of the donor need to be on receipts for charity in-kind donations. The rules were introduced to ensure that the appraiser was held accountable for the values indicated on the receipts. All tax shelter arrangement cases being examined by the CRA have been based on valuations. The CRA recommends that anything valued over \$1,000 be independently appraised, at the charity's expense. Since these rules have been introduced, larger charities have been less likely to accept in-kind donations. They would generally prefer a donor sell the items, and donate the proceeds.

If someone donates to a charity the opportunity to have lunch with a movie star, it is difficult to evaluate. The CRA feels that if something cannot be valued, a receipt cannot be issued. It is important to note that not everything can be valued easily if at all.

Previously people donated wine to auctions, which they were able to get appraised at a high value. The amount paid at auction was typically less than the appraised value; however the charities issued tax receipts based on the appraised value, as they lacked an understanding of the implications. With auction

sales, a tax receipt cannot be issued for an amount other than the amount paid, unless a retail price can be easily obtained.

In 2002 and 2003, a number of penalties were introduced in the Income Tax Act to deal with donation tax arrangements. For donors, the CRA is able to adjust tax receipts if they conclude values have been inflated or there has been gross negligence on the part of the donor. Additional penalties could also be imposed.

There are penalties aimed specifically at promoters, appraisers and tax preparers, who misrepresent the tax advantages or who neglect to mention, for example, their fees or other details.

Some appraisers participated in schemes, without full knowledge of the donation arrangements. Tax preparers would be held to task, if they accepted a receipt from their client for \$50,000 without asking questions. Charities can lose their charitable status for knowingly being involved in such schemes.

The CRA was forced to take actions when these situations developed, which has changed the way charities are run. There was previously an assumption that charities were not to be questioned.

Split-receipting rules apply when a donor receives an advantage back, in connection to a donated gift. For example, a donor donated a series of antiques to a museum, but the museum wasn't able to use them immediately, and loaned them back to the donor to use in his home for some time. Apart from insurance issues raised by this process, there was an issue with determining the value of property that was donated but leased back to the donor. The donation receipt must be reduced by the value of the lease back arrangement.

Similar situations occur with different types of property. A building was donated and then leased back to the donor. In this instance, the appraiser completed an appraisal based on the value of the property being donated, without knowing that the property would be loaned back. This would likely have affected the value of the original gift. Split-receipting rules allow a charity to effectively state "We received \$100, but gave you back something worth \$20, so here is a receipt for \$80".

Special types of property being donated include publicly traded securities. These can be donated by individuals or holding companies. Flow-through shares are shares used in the oil and gas industry. Companies exploring for natural resources are able to take exploration expenses and flow them to the shareholders, which they can then deduct from their income tax. The CRA may have an issue with this process.

Annuities are blended payments for life. A charity can be paid to give someone an annuity. The recipient would get an income from the charity, plus tax receipts equal to the capital amount of the annuity payment.

Life insurance policies can be very valuable, as some are able to shelter investments, and proceeds are income tax free. There are two ways to donate life insurance: 1. donating the life insurance premiums as they're paid (the donor will receive donation receipts equal to the premiums paid); and 2. naming a charity as the beneficiary of a policy (the life insurance holder's estate will receive a tax credit equal to the value of the proceeds donated to the charity).

The following points were raised in discussion (*the speaker's comments are identified in italics*).

[inaudible comment] *Cash donations can be made for a specific purpose as set by the donor provided it is charitable. Donations can be made to a sister charitable organization of an institution and restrictions can be placed on a gift if the donor wishes.*

[inaudible comment] *Large organizations don't want the hassle related to dealing with small in-kind donations. A small organization won't have the capacity to deal with them either. Penalties imposed by the CRA can be costly. It's often not worthwhile for a client (other than museums) to accept in-kind property, unless the property is large enough to investigate and properly value. Donations are accepted with associated risks, and can be refused by the charities.*

SECTION 9: DOCUMENT SESSIONS 3

9.1 Books (François Côté)

Printed materials such as books, monographs, reference work, magazines and newspapers have wide appeal. Unlike many archival documents these are sometimes widely available to buyers. This session considered the question: "What are the considerations affecting fair market value?" (This session was presented in French.)

Speaker: **François Côté**, Bookseller, François Côté, libraire

François Côté had a hand-out with his presentation. He also brought a splendid collection of books to illustrate the many points he made. He considered the different types of books that booksellers handle. Some books are very old, printed between the 15th and 19th century. Some have great illustrations; others have been recognized by collectors as having great value. Some modern books also become rare and valuable, and he mentioned examples of first editions, and of books with prized illustrations or special histories. Canadiana is a well-developed field, and he noted the early catechism printed in Quebec in 1765. Fleury Mesplet printed his first book in Montreal in 1776. A large part of his market is in Canadiana. Many people collect books by classification: travel books, literature, history of printing, or the documentation of art, for example. A book in perfect shape gets maximum value. In evaluating books, the rule is simple, he observed: The highest price book is that which everybody wants.

He then looked at several points to observe in appreciating an old book. First, consider the value of the book for the information it conveys, its publishing history, and its presence in bibliographies, dictionaries or historiographical works. Second, consider the book as an aesthetic object created by several artisans. Cherish the paper, the printing, the typography, the illustrations, the marbled edges or endpapers. Consider how the book might reflect the tastes of an era. Third, look at the book as old. Think of what it means to have been preserved over time, and look at the different qualities of paper, some that are designed to last for a long time, while others, often in wartime, have paper with short life expectancy. Fourth, consider the book as part of important private and public collections. Several factors contribute to rarity, such as the time, the print run, the reprinting or new editions, and changing tastes.

How does one consider fair market value for old books? It relates to supply and demand. It is important to consider the price of books when considering whether to do restoration work, for example. He spoke a bit about the conservation of documents and about the development of collections.

When doing research on book prices, he recommended the annual compilation of American Book Prices Current, now on CD, and of the L'Argus du livre de collection, Paris. There are also some useful websites related to libraries, and good sites for research on rare books. He specifically mentioned:

www.bibliopolis.net

www.ilab.org

www.banq.qc.ca

www.collectionscanada.ca

www.livre-rare-book.com

www.used.addall.com

The session ended with many questions from the audience.

9.2 *Architectural* (David Russell and John A. Moldenhauer)

Architectural collections in archives tend to be quite large, and include a diversity of materials such as: plans, perspectives, photographs, and details; and a diversity of media such as artwork, original drawings, mechanical reproductions and digital forms. As well, one needs to consider the contexts of the architect, the client, and site-specific considerations. The session considered the question: “How do appraisers balance these varied factors in determining fair market value?”

Speakers: **John A. Moldenhauer**, Rising Trout Books
 David Russell, Director, Capital Region, NAAB

David Russell observed that this was a tactical session describing what institutions need to do in order to ensure that archival descriptions for architectural donations are useful for monetary appraisers. First, there should be an overall statement of the gift. This should include a brief history of the architectural firm which includes biographical profiles, significant projects and a comment on the projects contained in the donation. Draw attention to the importance of the donation in relation to the actual holdings and the collections mandate of the institution. There should be a list of all projects, together with the number used by the architectural firm. Then there should be a breakdown of types of documents by type and number. Exceptional items should be highlighted. Draw attention to handwritten annotations, physical condition, and what is remarkable about the content of the drawings quite apart from condition or media.

It is helpful for archivists to look for textual records and their relationship to the drawings, photographs or exhibits. Archivists should mention when the architects have donated models or maquettes, and be sure to mention in the inventory the details about scale, completeness, display value, etc. The archivist should know how complete the donation is for the period it covers, and for the life of the firm, and its predecessors and successors. Appraisers find it useful to have the processing archivist accessible for questions that might arise about description and significance. The shelving of the architectural records should match the finding aid descriptions. Appraisers should receive the finding aid at least two weeks before the appraisal date.

John A. Moldenhauer looked at how appraisers do their work. They will examine the status of the architects, and consider the projects and awards associated with them. They will look at the quality of the drawings and how complete the documentation is for each project. Is there research value in the projects? Are projects related to the fame of the architect? Then he looks at the display potential of the drawings: are there presentation copies? Elevations? Isometrics? How many drawings are highly finished? Is there a demonstrable market for the sale of the architect’s drawings, perhaps with a gallery contract?

In an ideal world, appraisers prefer to work at the item level, which is very transparent. However, archives do not always do reports at the item level. Appraisals can also be done by project. These will vary in quality and research value and at the end of the day will cover all the elements.

It is also possible to appraise large collections by percentages. Documents can be categorized as small, medium or large, as industrial, commercial or residential. The appraiser samples each type of document

and comments on what he has seen. The sample identified in a project might be 10%. The appraisal report will make estimates based on the directed sample.

The appraiser will consider other elements in the donation. Are there textual materials or photographs? Are there elements that enhance research about the architect, his work or the settings for his work? There are also problems in the world of computerized architectural drawings. He related recent experiences working with Computer Assisted Drawings (CADs). We need more research on ensuring the integrity of the documents, the constantly changing software, and he valued them lower than mechanical reproductions. He will be interested to see what happens in the next few years.

There were many questions in both sessions.

9.3 Appraisal of Photographs (Brock Silversides)

Photographs can be quite diverse. At this session, participants were invited to learn how appraisers need to consider the artist, the medium, the subject matter, the size and technical quality of the photographs.

Moderator: **Andrew Rodger**, Photo Archivist, Library and Archives Canada

Speaker: **Brock Silversides**, Director, Media Commons, University of Toronto

Brock Silversides has considered many of the elements in the identification of the formats, and the intentions and conditions under which photographs were made. Let's discuss monetary appraisal, and some of the major criteria used in evaluating photographs. Monetary appraisal is the process to determine in dollar terms a fair market value, of the documents, in our case of archival photographs that are in a collection or fonds. What monetary value would these documents likely to fetch on the open market?

The idea of "fair market value" is integral to the process. This can be elusive when the record of market activity is slight. However, appraisers work with the definition of fair market value as set out by the CCRA and the CCPERB: "*The highest price, expressed in terms of money, that the property would bring in an open and unrestricted market between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.*" This is not a fixed value – rather it is a fluid and largely comparative value. It is based primarily on the collectibles marketplace and changes over time. Items can have historic value, research value and intrinsic value, but paradoxically estimates are justified where possible by replacement costs and/or comparable sales figures.

A monetary appraisal has to conform to a series of rules and regulations, has to be carried out by qualified appraisers taking into consideration certain criteria, and using certain information to justify their values. Appraisals are best done by individuals who possess in-depth specialized knowledge of photographs and formats, collector market, research value, salability, and monetary value. They come from a wide variety of backgrounds – academia, auction house personnel, book and antique dealers, private collectors, the photography community, and the archival, museum or library communities. They can be curators, educators, historians, or practicing photographers. However they have to work at arm's length – they cannot be ongoing employees of or attached too closely (i.e. an advisory board member) to either the archival repository or the donor, or there may be a perceived conflict of interest.

It is recommended that the appraisers have solid credentials and affiliations indicate a specialized knowledge, expertise and interest. It is also preferable if the appraiser has at least several years experience in a working environment in the field so that he/she has both practical and theoretical knowledge to bring to an appraisal. Appraisers cannot have a professional or commercial interest in the specific material under consideration. Archival institutions can have appraisals organized by NAAB or by independent appraisers.

When NAAB is called in to do an appraisal, the regional director will assemble a committee of three suitable appraisers – ideally one historian and/or archivist, one dealer, and one other qualified member. One of them – usually the most senior – will be appointed the Committee Chair. Together the committee authors a single appraisal report agreed to and signed by all the members.

Independent appraisers are just as acceptable if they have an expertise required to carry out a fair appraisal. They may also be called in if a donation is pending or conditional – NAAB will only appraise collections that have already been irrevocably gifted. Independent appraisers can be hired by both institutions and donors. Each independent appraiser has to produce his/her own report.

For donations that contain artwork (and many photo collections have components that are considered fine art), at least one member of an appraisal committee should include an art dealer. It is the duty of an institution to secure the services of an appraiser who has a proven knowledge in a discipline related to the fond/collection to be appraised, or to request that the NAAB regional director gather the most appropriate members for their appraisal team (although the institution cannot dictate the specific makeup of a committee).

Different approaches to valuing photographs help set a base figure or a benchmark. An appraiser then needs to consider various qualitative criteria, especially about the content, to further adjust the figure.

Appraisers can calculate replacement value by determining what it would cost to replace the material in a fonds or a collection if it were destroyed or lost. For photos, the replacement cost includes the cost of film, paper and processing. This can be found in the price lists of photo supply retailers, photofinishers and photo studios. Using the price lists of Toronto Image Works & Henry's Camera's, some representative prices are:

- 1 roll of 36 exposure 35 mm black and white negative film costs \$8 plus \$9 processing
- 1 roll of 36 exposure 35 mm colour slide film costs between \$8 and \$10 plus \$9 processing and \$2 per roll for mounting
- 4 x 5 inch black and white negative film cost \$1.50 per sheet plus \$3 processing
- 4 x 5 inch colour transparencies cost \$3 per sheet plus \$3.50 processing
- 5 x 7 inch colour proof prints cost 90 cents per print for an entire roll or \$3 for an individual reprint
- custom black and white prints: 5 x 7 (\$13); 8 x 10 (\$14); 11 x 14 (\$30)
- custom colour prints: 5 x 7 (\$26); 8 x 10 (\$26); 11 x 14 (\$36)

The basic calculation then involves determining how many of the various formats are in a collection (prints, slides, and negatives), combining the cost of the raw materials and their processing per item (at the time of the appraisal), and doing the math. This is getting more difficult to do as manufacturers are rapidly discontinuing traditional photographic paper and film – prices for these “obsolete” services are going up – and photofinishers are going completely digital; but it can be done.

If the materials seem to be of a certain quality and content so as to be appropriate for stock photos – then you may want to take into account stock photo price guides. This is much like using stock footage prices in the evaluation of moving images. It is a tricky procedure since stock photo prices tend to include intellectual rights, and CCPERB will not recognize or deal with those. So the figure would have to be split – one appraisal for the physical property and one for the intellectual property. This is especially relevant if all rights to the photographs have been donated to the institution, and it is considering charging usage fees to generate revenue.

Stock photo prices vary widely depending on the intended use and size of audience. There are differing prices for use in a corporate annual report vs. a widely subscribed magazine, between the use of an image on a lead page versus an inside page, or between its use for illustrating an article versus advertising.

Some representative websites which explain the differences in detail can be found at:

<http://photographersindex.com/price-calc.dbm>

www.pbase.ca/i/prices.php

www.humanistic-photography.com/pricing/pr_stock13.htm

Information about comparable pricing – i.e., precedents and equivalents – can be found in external sources.

- a. The record of prior actual sales by the creator. This is compiled from invoices and receipts.
- b. Comparisons with NAAB precedents (limited usefulness as they are only available to NAAB members and values for the 1970's and 80's are relatively useless now).
- c. Insurance values that may have previously been attached to the donation (keeping in mind that the values for insurance will differ from values for tax purposes).
- d. Auction catalogues – both published and increasingly - online – which have listings of similar items and buy and sell sites such as eBay or Advanced Book Exchange (ABE). There are a number of auction houses that publish catalogues – both before a sale with estimates – with the addition of after-sale final figures. They have traditionally dealt in “art” photography, but many are now selling historic everyday images by ordinary photographers. Many good benchmark values can be found in these.

For example, from a November 2006 catalogue by Levis Fine Art Auctions based in Calgary, one can find a studio portrait of an unidentified Blackfoot Warrior by Alex J. Ross. A cabinet card, albumen print from the mid-1880's in very good condition is given a beginning price of \$1,200-1,500; an exterior view of the Illecillewaet Valley & the CPR Loop by Notman & Sons. An 8 x 10 inch silver print from 1904 in good condition is given a beginning price of \$150; a postcard album containing 71 real photo postcards of the Banff region by Byron Harmon and dating from 1906-1910 is given a beginning price of \$1,000-1,200.

Another catalogue from October 2006 from Auction House Heinze & Co. in Toronto has a view of boaters on the Humber River in Toronto by the firm of Pringle & Booth; a 5 x 7 inch albumen print from 1890 - \$100-120; a view of St. James Cathedral in Toronto by the studio of Notman & Fraser; an 8 x 10 inch albumen print from 1880 - \$150-175. Even though these estimated prices are good benchmarks, even better figures can be found in the actual sales figures which are generally available after an auction.

A high quality online website for certain types of Canadian photographic images can be found at Aquila Books (www.aquilabooks.com). Under the section “Historic Photographs” one can find a stereograph view of a Blackfoot camp entitled *Camp after a Day's Hunt* by A.B. Thom from the 1880's, priced at \$225.; a 8 x 10 inch silver print from 1895 of *Squaw and Papoose* at Gleichen N.W.T (now Alberta) by R.H. Truman priced at \$1,500; or an albumen cabinet card studio portrait from the mid-1880's of a renowned Saskatchewan First Nations chief *Pie-a-Pot* (credited to G.A. Hanes of Calgary, even though it was taken by J.A. Brock of Brandon) priced at \$1,750.

Again these are prime benchmark values, although each value would have to be broken down according to the importance of the photographer, the rarity of the image, the date, and the format. Other criteria are used in the appraisal of photographs. Are the photos about acknowledged favorite collectible topics such as railroads, airplanes, First Nations, workers with their tools, North West Mounted Police, and notable buildings?

Be aware of the concept of “flooding the market.” This is applied to large numbers of images of a similar topic by one creator, or many copies of one work in many different institutions. As more copies are available, the less monetary value they have. There can also be regional discrepancies in collectibility and values. Photographs sometimes have a lesser value in the regions and higher values in the Toronto/Ottawa/Montreal area due to a higher number of collectors and a willingness to pay more.

No matter how well defined the market, appraisers need a “reasoned justification” showing a full rationale and description of the factors which have been brought into play in the appraisal process, and ending with a reasonable dollar figure.

As difficult as it is to directly link with a monetary value, there is in the minds of most appraisers also a value for research potential if that can be deduced from the property. If there is clearly material - especially previously unknown or likely giving rise to a re-interpretation or significant elaboration of accepted history - that can be used in published or filmic studies or documentaries, then the information contained within these photographs will have added monetary value.

There are a large number of internal or intrinsic criteria that appraisers use to arrive at their “reasoned justification” values. Some criteria are assigned a greater weight for some collections, and little weight for others depending on the nature of the donation. The most common are:

- amount of material
- age and formats
- date range (and noticeable/significant gaps)
- production values (exposure, contrast, colour balance, focus) – are they professional or amateur?
- presence of informative documentation such as studio log, daybooks, docket envelopes
- comprehensiveness – for example, does it cover the entire existence of studio or individual?
- is the material an accrual – an addition to an earlier donation?
- does the material complement other collections in the institution?
- does it relate to a currently “hot topic”?
- physical condition – will the institution need to spend on conservation or reformat?
- exhibition value?
- intangibles such as reputation of photographer/studio/organization
- impact of person/organization that the collection is about - does the collection document a profound change in society, technology or a discipline?
- local, regional, national, international importance
- critical/financial success of final product (usually if the person’s images were in a publication)
- whether the photographs have been exhibited and where
- rare/unique/commonplace status (meaning the presence of other known copies) AND authenticity (vintage – printed by or under the supervision of the original photographer, as opposed to later printing or 2nd generation copy – will have a major effect on value); technical, scientific or aesthetic significance; presence of famous autographs, stamps or rare postal cancellations
- accessibility/access restrictions (length and exclusivity)

Most appraisers seek a reasonable value and rely on comparison, intuition, and the placing of both the creator and the fond/collection in a theoretical hierarchy of “importance”, “research value” and “salability”. Their ultimate values incorporate the combining of all the information available, the weighing of the different criteria, and personal judgment. Thus it is not surprising to see appreciable differences in the ultimate values assigned by appraisers.

The speaker brought several books about the collecting of photographs, and a few auction catalogues.

Badger, G. *Collecting Photography* (London: Mitchell Beazley, 2003)

Bennett, S. *How to Buy Photographs* (Oxford Phaidon/Christie's, 1987)

Fels, T.W. *Sotheby's Guide to Photographs* (New York: Henry Holt & Co./Sotheby's, 1998)

Photographs December 7, 2006 (New York: Swann Galleries, 2006)

Fine Art & Vintage Photography Auction November 2005 (Calgary: Levis, 2006)

Fine Books, Photography, Posters and Ephemera Auction October 2006 (Toronto: Heinze, 2006)

9.4 Large Literary Collections (Monique Ostiguy, George Brandak, John A. Moldenhauer and Elwood Jones)

This session was arranged on very short notice when a key speaker was unable to attend. It was decided to have a panel session in which those speaking had no opportunity for research, but drew upon wide experience.

Panelists: **Monique Ostiguy**, Archivist, Literary Archives, Library and Archives Canada
Georges Brandak, NAAB, Regional Director, British Columbia; and Archivist, University of British Columbia
John A. Moldenhauer, Rising Trout Books
Elwood Jones, NAAB, Ontario Director, and Professor emeritus, Trent University

Monique Ostiguy shared her experience in working with large literary collections by French-language writers.

The monetary value of our literary heritage is affected by the symbolic aura that surrounds writers, the mass-marketing of their books, their high public profile and the show-business side of their work. This is true mainly for the manuscripts, diaries and personal correspondence of Canada's best-known writers. Such records are valued by collectors. However, large literary archives are of great research interest to scholars and universities, and that quite properly makes them worthy of being kept in libraries and archives.

Not all monetary appraisers closely monitor the research work of literary experts. Nor is it realistic to expect appraisers to identify all of the research potential in an archival fonds. For example, *Gold Star* premium stamps from the 1960's were used as key props in Michel Tremblay's play *Les belles soeurs*. These props, in the Tremblay fonds, have been frequently consulted by others designing props for the play, and also by a major daily newspaper and a grocery chain commemorating this past. It is therefore important for literary archivists to draw appraisers' attention to the importance of records other than manuscripts, diaries and personal correspondence.

Records pertaining to a writer's involvement in literary and cultural events both here and abroad provide evidence of their activities. However, the records also show how their works were received by publishers and readers, and the importance of literary associations and institutions, of the whole world of literary endeavour. Records can inform us about writers' connections to academic, social, religious or political life. We can learn how they earn a living. All documents related to the writing of their works need more emphasis. All their activities affect them and their work. Sometimes their efforts as students, for example, can show hints of a budding career.

Archivists need to share their knowledge and intuition about literary research and emerging trends. While the publication of critical editions is not as widespread as it was a few years ago, the various stages involved in writing a work, and peripheral records, are increasingly being used in textual genetics research, partly because studies into the workings of the brain are of paramount importance in scientific research. Both literary scholars and the general public are more interested in how writers write and in the fundamentals of writing. There is interest in writers' research, plans, drafts, fragments, versions, lists of words on bits of paper, and smatterings of ideas. Literary archivists should draw such matters to the attention of appraisers.

When institutions lack the financial resources to purchase literary fonds, then monetary appraisals become more important. Whereas independent appraisers might spend two days looking at a sizeable archival fonds, NAAB teams might examine two voluminous fonds in a day. The finding aids, which NAAB appraisers receive several weeks before the appraisal, can highlight many features of the fonds. Even with a finding aid, appraisers will not read everything that is in the fonds. And of course, not everything can be found in the finding aid. If a writer has ties with other countries, for example, then inform the appraisers.

Archivists also need to highlight the content of a writer's correspondence. Research and monetary value can be affected by the subject matter of the letters. Letters relating to minor health problems might have less value than those discussing ideas about writing and its connection to the wider world. Professional correspondence with publishers and reviewers is important. So is personal correspondence that allows us to see daily activities. Correspondence containing discussions about theory or poetics needs to be highlighted, these might be more important than a signed holograph document whose contents are anodyne. One needs to consider the fame of the writer, but also the content of the correspondence, whether in manuscript or electronic form.

The archivist should provide a better account of the research value of the records and share this importance with the appraisers. Writers, who have entrusted their personal archives to public institutions, deserve nothing less. They have contributed to the survival of their work and of key moments in Canadian literary life.

George Brandak felt that large literary papers should be treated as one treats other archival fonds. It is important to have a solid and useful finding aid that contains information about content as well as physical extent. He warned against the vanity of writers. Writers want money and will be co-operative with archivists.

John A. Moldenhauer had experience with literary archives both as a Special Collections librarian at Guelph, and from extensive experience as an archival appraiser in major archives. He observed that archivists are more likely to fall in love with the literary collections. He warned that archivists should be wary about having too close a friendship with the donors or writers. Appraisers take a slightly different slant. They look for highly significant research value. It is often interesting to see how authors change over time and so with literary papers, as opposed to other archival fonds, there is less need to cull duplication. There is little value in literary manuscripts that are too clean, as opposed to those that document the revisions of writers.

Elwood Jones, who has appraised major literary fonds over the years, advised appraisers to approach collections from the bottom up. Identify key elements that have identifiable markets, known autograph values, or auction trails. Sometimes there are interconnections with earlier appraisals of the literary papers of different writers. He noted one literary fonds contained 14 letters from Eric Blair, better known as George Orwell, whose letters even 25 years ago were bought for \$10,000 each. Appraisers need to see finding aids at least two or three weeks earlier so they can research the current value of letters from individual correspondents. Now that writers use computers it is more difficult to distinguish changes from

one draft to the next. Al Purdy told writers and the Globe and Mail that writers should save the contents of waste paper baskets, but such advice is wrong. Xerox is worth zero. He felt it was important that large archives in universities collect literary papers, and other fonds that have significant research value. If a particular set of papers could be useful in writing an M.A. or Ph.D. thesis, it might have values in the order of \$20,000 or \$50,000 to the university. In a triangulation approach to appraisals that might be one side of the market triangle. Building up element by element is crucial. It is also helpful to consider plausible comparisons for which the appraiser has known values, possibly in the NAAB database. This session discussed some of the most significant holdings of major archives such as the papers of authors, journalists, writers and other literary people, which are often priced for their potential research value.

SECTION 10: PLENARY SESSION 1

10.1 The Dark Cloud: Problems with Monetary Appraisals (Brock Silversides)

Moderator: **Ken Larose**, Vice Chair, NAAB

Speaker: **Brock Silversides**, Director, Media Commons, University of Toronto

Ken Larose, Vice Chair, NAAB, provided comments regarding the professional background of Brock Silversides, including his experience at the Medicine Hat Museum and Art Gallery. Since leaving Medicine Hat, he has been at the University of Toronto. Additionally he has been a member of NAAB and an independent appraiser for over 15 years. He has taken on some difficult tasks, such as the appraisals of animation cells and musician's guitars.

Brock Silversides noted that through his experience as a monetary appraiser, he had learned much from his fellow appraisers. Although the concept of donations for tax purposes is an excellent innovation, it has been difficult to continue doing appraisals, in light of the monetary appraisal system. Appraisals are no longer particularly enjoyable, as they have become quite mathematical.

I have been a monetary appraiser of archival collections – both as a member of NAAB and as an independent - for over fifteen years. For the longest time, I enjoyed it tremendously – it was challenging, and taught me a great deal about new creators and fonds, new archival institutions, and new aspects of Canadian history. I have made many friends amongst my fellow appraisers and learned much from them. The donation-for-tax-credit process is a wonderful Canadian innovation, and works well when all the participants do what they are supposed to do.

However the atmosphere surrounding monetary appraisal has changed. Appraisal is less enjoyable, and rarely intellectually challenging. There is pressure from donors and collection managers alike to either raise or lower values. And there is the ever-present danger of being questioned by the CCPERB.

If one does not please the donor, the institution and CCPERB (and one cannot possibly please them all) then criticism is freely given. Some appraisers have become cynical and jaded about the process and have decided to drop out altogether. The present state of monetary appraisal is slowly but surely coming under a dark cloud.

To have a healthy climate for appraisal, appraisers must be motivated, enthusiastic, well-informed about the fonds and collections they are appraising, and at least adequately recompensed. They cannot feel as if they are under unrelenting pressure to get their reports completed under unreasonable timelines with less-than-helpful finding aids, to come up with an “expected” final monetary value (that is expected by other people), or to approach their appraisal strictly by numbers.

The donor community must not be fed unrealistic expectations; the archival community must realize that it has to do a full and professional job of preparing for the appraisers, and stakeholders throughout the process need to act in a civilized manner and not demonize appraisers.

The six major pollutants for monetary appraisals happen to be the six major players in the process: the donors; the archivists handling the collections to be appraised; the managers of institutions; third parties/brokers; CCPERB and NAAB.

Most donors are reasonable but some have become vocal and aggressive. Some feel they are incredibly important and thus deserving of higher values than others. Some have corporate or political clout, and are willing to throw their weight around.

Many donors treat the appraisal process as if it were a business transaction, and try threatening or bargaining. Donors appear to be driven increasingly more by the size of the tax credit than the importance of preserving their “legacy”.

Some donors expect institutions to arrange and describe their collections by unreasonable deadlines (which inevitably lead to shortcuts and compromises). Some demand high monetary values from appraisers. Too many donors equate a large quantity of material with a large tax credit, and deliver huge collections to institutions. They do not understand that parts of a collection can have little or no value.

Archival institutions are under-resourced, and do not have the time or staff to do inventories in the time period desired by donors. In some cases, the donor steps up and completes the finding aid to expedite matters. It is not helpful when donors ignore the advice of archivists. They hire people who work quickly and cheaply, have no knowledge of archival or CCPERB requirements, and in the end produce finding aids that the appraisers cannot use. Their anger should be directed at themselves not at the appraisers.

Cash-strapped institutions are increasingly asking donors to pay for the appraisals. If so, institutions should maintain the position of hiring and paying the appraisers; donors should not directly deal with the appraisers.

Staff archivists are tasked with the arrangement and description of a donation and generally liaise with the appraisers. They are often prevented from doing a professional job.

Managers of institutions regularly assign archivists to collections about which they are not always informed or knowledgeable. Such “generalists” are a bad fit and sometimes make poor decisions about selection and retention; they prepare finding aids filled with errors or misleading information. Such finding aids can lead to unexpectedly low values and result in negative feelings with the institutions and donors.

Poor finding aids are a direct concern to appraisers. When items such as audiovisual formats are incorrectly identified and described, or units of measurements are wrong (e.g. trying to express videotape in centimeters rather than in minutes, or film in seconds instead of feet), then that calls the entire inventory and aggregate totals into doubt. When accurate totals for types of items are not provided, more checking and more time are needed, which leads to more expensive appraisals and sometimes to missed deadlines and overlooked elements.

Managers of heritage institutions are always major players in the tax credit process. The majority of managers is well informed and wants the process to work. Unfortunately some interfere on behalf of their donors – especially the rich and famous. The arms-length spirit of the appraisal process may be lost.

Sometimes they accept inappropriate deadlines and inferior finding aids. Many managers have not been working archivists for a long time, if ever. It is labour-intensive and time-consuming to do proper arrangement and description, and produce a professional finding aid. Appraisers usually need more time to understand what is in a collection and time is money.

Managers should never give donors an estimate of what they think the donation will be worth. Appraisers should not alter fair market values estimates to please managers. However, some managers select only appraisers who they think are malleable.

Some institutional policies present difficulties to appraisers. Institutions need to be flexible about scheduling appraisals, even if this means some appraisals are on weekends.

Institutions must pay appraisers promptly, especially when appraisers have hotel and travel expenses. Perhaps appraisers should withhold signatures until they are paid.

There is room for third parties in the donation for tax credit process. Some people or companies step in when an institution does not have the time or staff to organize collections and prepare finding aids for donors. Some link up donors with logical institutions where contact might not have been made in the normal course of events. Usually they are paid by the donors.

They should get paid for their valuable activity. In many cases, they are more informed about the donation for tax credit process than many staff archivists or managers. However, sometimes they promise more than they should. Sometimes they promise a high tax credit value – something the third parties have no right to promise. Sometimes their fees are linked to the value of the appraisal. These are bad practices and if they pressure the appraisers it is repugnant.

Third parties tend to make decisions on selection and acquisition that should be made by the archival institution. When selection is not done according to archival principles, one can expect lower monetary values.

Third parties sometimes arrange, describe and prepare finding aids. When finding aids are not thorough, not organized in accordance with archival standards, and prepared using software that is not supported by the IT departments of the repositories, the difficulties are manifest.

All stakeholders agree that CCPERB needs stringent policies and procedures, and needs to be convinced that appraisal values are reasonable and justifiable. CCPERB sometimes makes independent appraisers feel that they are part of a tax evasion conspiracy. They have no interest in the amount of the tax credit going to a donor.

CCPERB should value the personal judgment, experience and professionalism of the appraisers.

CCPERB has shifted markedly from consideration of the qualitative opinion of appraisers to a strictly mathematical formula for everything. Appraisal is not that simple. Many very qualitative factors must be considered such as the reputation of creators, their place in a hierarchy of importance, production values, perceived research value of the content, and societal and cultural impact. Appraisers must decide the balance between the objective and the subjective.

NAAB is a noble and useful organization, carrying out an important public service that contributes to the saving of Canada's cultural history. Those of us who are members are proud to be so, and we are happy to have the association with the name. However, some institutions prefer to use independent appraisers only.

NAAB does not have knowledgeable appraisers of all types of collections in every region. When a NAAB regional director puts together a board to appraise an institution's collections, it is incumbent upon that director to come up with three qualified members. This might mean bringing in someone from outside of the region. This might be more expensive because of travel and accommodation expenses.

NAAB sessions also tend to go too fast – teams are regularly given a large number of fonds/collections to get through. Many types of archival fonds/collections need to have comparative values thoroughly researched and not enough time is available for such research.

A true three-way consensus about value is rarer than one would think. Often the team accepts the values given by the person who is loudest, most argumentative or most impatient.

Finally, NAAB does not pay enough. The current daily fee is \$350 a day (\$450 for dealers). Independent appraisers in the Toronto/Montreal/Ottawa area can make up to \$1,000 a day. This is considerably more appealing when appraisers need to take a day off from their regular job. Reimbursement of expenses should always be prompt. Appraisers are fascinated by Canadian history and records, and want to help institutions bring in historically valuable material with what is now the only viable means of collection development – the donation for tax credit. We should be paid a reasonable fee, promptly.

Summary

This sad state of affairs can be turned around with a few attitude adjustments and some minor policy changes. The best appraisers are really those who are well informed about their area of expertise, who are open and listen to others, who are observant, thoughtful, and cooperative, and who do not rush the process, or feel compelled to force their values on an appraisal team. We all have to rethink our views of the monetary appraisal process. Canada is fortunate to have such an arrangement in place and it is generally a win-win-win situation for all the stakeholders.

People should implement the following recommendations when it is within their powers to do so.

1. The donor and the appraisers should not deal with each other – or if they do, it would only be for informational purposes BEFORE the final value is reached. Appraisers only have to justify their values to CCPERB or CRA – no one else.
2. Managers should ensure that they match the most suitable archivist to the donation, and then give the archivist sufficient time and resources to do a professional job on the arrangement and description. Third parties should NOT do the selection, and their finding aids should be done following the advice of the institutions.
3. Managers and third parties must stop giving monetary estimates to donors before the appraisal is done.
4. Managers must provide flexible arrangements for appraisers, even if this requires weekend and evening appraisal sessions.
5. Managers should remain as neutral as possible, and ensure that all the participants can contribute without pressure. They cannot control the entire process – and should not even want to. They also have to pay appraisers promptly.

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6. NAAB regional directors should use the most qualified appraisers for the various types of collections, and bring in a member from another region or a qualified independent appraiser when appropriate.
 7. NAAB team members should have to act in a more collegial manner – to truly discuss and arrive at a consensus. NAAB should raise its fees for appraisers. NAAB teams should slow down their sessions and not say yes to a huge number of collections at one sitting. More thorough reports help to maintain credibility.
 8. CCPERB must realize that appraisers are impartial. CCPERB should do more than just pay lip service to the non-mathematical, qualitative concepts of value.
 9. Everybody should SLOW down and let the process take its course. If a CCPERB deadline is missed, there will be another one in a few months. Don't pressure appraisers to adjust their figures.
 10. CCPERB and/or NAAB should hold workshops every year to explain the process and train participants in their responsibilities.

Institutions should have written policies setting out the roles of staff members. Nova Scotia Archives & Records Management has such policies because both recent provincial archivists Carmen Carroll and Brian Speirs have been appraisers themselves. Their “Monetary Appraisal Policy” – which can be accessed online - includes several relevant clauses such as: “Staff shall not attempt to give donors legal or tax advice” and “When material is appraised by outside appraisers, the archivist or other staff responsible for the material shall not comment on its monetary value”. When everyone knows their role in the process – and does their job fully and professionally, without overstepping their boundaries – and where some of the reasonableness, good will and civility that used to surround the process has returned – then monetary appraisal will once again be an intelligent, enjoyable and respected activity.

SECTION 11: THEMATIC WORKSHOPS 4

11.1 *Implications* (Normand Charbonneau)

The workshop described the tools designed by BAnQ for donors and archivists responsible for acquisitions. It also spoke about the interactions between appraisers and archivists, which led to a consolidation of practices used in the preparation of documents for stakeholders (donors, archivists, appraisers and researchers). (This session was presented in French.)

Moderator: **Mario Robert**, Records Management and Archives Analyst, City Clerk Department, City of Montreal

Speaker: **Normand Charbonneau**, Director, Centre d'archives de Montréal, Bibliothèque et Archives nationales du Québec (BAnQ)

Mario Robert introduced Normand Charbonneau, who would be discussing the practices relative to monetary appraisals at BAnQ. Charbonneau has worked in the heart of National Archives of Quebec since 1990 and assumed some diverse professional responsibilities before being named Director of the Centre of Archives of Quebec in April 2002. He has also taught at l'Université du Québec à Montréal and at Laval University. Charbonneau collaborated in publications and has delivered presentations at many conferences, particularly relative to the subject of photographic archives.

Normand Charbonneau provided an overhead presentation titled *Practices Related to Monetary Appraisal of Private Archives at Bibliothèque et Archives nationales du Québec (BAnQ)*, and acknowledged the objective of the conference to study the preparation of archival fonds for the purpose of monetary appraisal.

BAnQ is a result of the fusion of National Archives of Quebec and the National Library of Quebec in January 2006. In this institution there are two traditions and two archival practices. The literary archives of the arts are the responsibility of the General Director of Conservation. They had their traditions and the old national library had theirs, so there are now two traditions, and two sectors of acquisitions which are still at the stage of shared acquisition.

Their decentralized process of acquisition happens in ten different places. The Departments of Political Archives, Fine Arts, Business Archives, Literary Archives, etc, all do their acquisitions in different locations. For acquisitions of national importance, the acquisition will be done in Montreal but conservation will occur in the place of origin of the archive, whenever possible. Conservation, treatment and access are all decentralized. These steps are done in nine centers of archives under the general direction of the Department of Archives at BAnQ.

Research tools were previously unsatisfactory for users since many were still packaged in plastic wrapping and in boxes, and stayed this way for 15 years. The preparation for monetary appraisals was sometimes insufficient and donors were not happy about the amount of time it would take to get their tax receipts.

The fusion forced a consolidation of the processes. It was obvious they could not function in the new institution, especially with the acquisition of private archives. As such, they evaluated the needs of the appraisers and the donors. They consulted many of them and started a committee, which worked on an elaboration of tools. The tools were then validated with the monetary appraisers. Acquisitions are now better prepared.

The first guide, developed by BAnQ in partnership with the national assembly, is used for the management of current archives, definite archives and parliamentary fonds. Parliamentary people have now received information on the process of donating their archives. This guide is working fairly well and the partners are satisfied.

The second guide was done in collaboration with the Order of Architects of Quebec for the management of architectural archives. They receive many fonds of architects, which are now received in an organized fashion. This guide is available online on the BAnQ site.

The third guide is for the management of archives for publishing houses. This guide was developed in association with some editors, but was not as successful as other guides. It is more difficult to put it into application, as there are not many publication houses any more.

The fourth guide is for political parties, which won't be explained during this session. The fifth guide was made by the Réseau des archives du Québec for business archives. The sixth guide is for personal and family archives. It was produced by the Association des archivistes du Québec.

These guides are only a partial solution. A document was also produced to address a variety of implications that can arise with donors. When meeting with a potential donor who has a price in mind it is important to be transparent. Appraisers shouldn't make things sound better to entice a donor into donating an item, as the donor ends up being disappointed in the end. It is important to show donors that a complete

fonds is generally more attractive to researchers. If a politician brings in his documents, but only provides those from his political life, he should be asked questions in an effort to complete the fonds.

There is a policy regarding the acquisition of private archives, which is in the process of being rewritten. This policy will be relevant to literature, fine arts and other categories of documents received at BAnQ. It will explain the content of the archive, and will explain to donors the procedures for meetings that will be scheduled with them. It will prevent a lot of misunderstandings, as it will be emailed to donors before their initial meeting.

Another document (available on the company intranet) has been produced for personnel, relative to the preparation of archives.

At the moment of the fusion, efforts were quickly made to encourage discussions between the national library and experts involved in the business. This process created a better understanding between librarians and the archivists, and prevented some confusion. Orders regarding internal monetary evaluation were just produced, and approved in June 2007.

These documents were all designed to help rationalize operations. Another document explains what a fonds is, and what a donation is. It provides appraisers in small towns with a recipe for dealing with people. Documents also address the roles and characteristics of external appraisers and members of the senate. They talk about fiscal advantages and how appraisers should never mention anything about capital gains. Appraisers should always advise the donor to speak with their accountant. Another document, created in 2004, was prepared specifically for centers with private archives. There is also a document on the preparation of fonds, which is available for partnering archive centers. It contains various forms that the archivist can use and photocopy to help with the documentation process.

Charbonneau concluded that the fusion worked well as they all worked together.

11.2 Fair Market Value in Real Markets (Elwood Jones)

This session considered the questions: How does one identify the particular market that relates to the documents being appraised? How is market value affected when materials are withdrawn from the market and donated to archives and libraries? What is a real market?

Moderator/Speaker: **Elwood Jones**, Regional Director, Ontario, NAAB and Professor Emeritus of History, Trent University

Elwood Jones provided comments regarding his professional background and his role as the Ontario Regional Director of NAAB.

I have been doing fair market value appraisals since 1970. From the very beginning the concept was understood to be the price that archival documents (broadly defined in this talk as anything that might be considered archival) might receive in an arms length situation in which a knowledgeable buyer and a knowledgeable seller were interested in dealing. There have been some refinements in the concept over the years, most notably that the price would be the “highest price” that could be negotiable.

We understood even then that the notion of market was very flexible, and not always transparent. Halifax and Vancouver did not normally spend as much as Toronto on anything archival or artistic; Toronto, on the other hand, spent less for bread than did Saskatoon.

It was common to say that the ruling scenarios for sellers were New Guinea and New York. If you wanted a low price, such as for an estate auction, you wanted prices such as you would get in New Guinea at the height of the monsoon season. If you wanted a high price, then tie into the auction market in New York at the height of the theatre season with a sale that has been advertised and hyped widely. Even now, this is a helpful way to bracket the values that might be pertinent to fair market value. The truth, as they say, must lie somewhere between.

While these extremes might not be pertinent for any appraisals that I do, the importance of thinking in terms of a market is crucial. Fair market value assumes there is a market. The negotiation between buyer and seller is on all three terms: fair, market and value. Of the three, appraisers are foggiest on market.

In this day of environmental recycling it is easier to understand that even rubbish has a market. It is commonly thought that in the accumulation of documents, the documents worthy of permanent preservation, the documents we would consider archival, is about 5% of the total volume. In the old days, archives were whatever survived neglect and ignorance, or the ravages of fire, water and other natural disasters. In modern times, it is possible to manage records to replicate the effects of such disasters.

Archival theory and practice is based upon several principles, of which, for our purposes, are appraisal and evaluation, *fonds* and *respect des fonds*. When a donation is received it is appraised and evaluated against several criteria. Some things are not worth saving permanently: repulsive, duplicates a better reference, too personal, impertinent, stolen goods, poor quality legibility, and Xeroxes. Some things are not accepted if they fall outside the institutional mandate. The remaining documents are kept as distinct fonds, perhaps with sous-fonds, that are defined around the creator, receiver or keeper of the records. The papers are organized with *respect des fonds*. This concept is sometimes wrongly translated as original order. It is, however, more than that. It is arranging the records as the creator would have done had he wished to find items within the fonds.

The monetary appraisal process begins after all of that has been done. The archivists create a finding aid, usually by RAD, that systematically summarizes the contents of the fonds to at least the file level. However, for monetary appraisal purposes, it is desirable to go a step further. If that step is not done by the archivist, it will be done by the appraiser, and the appraiser's costs will be charged to the archives.

The appraiser needs to know about the individual documents, even if 100 documents are contained in a single file with a RAD description. From an appraiser's perspective, the major weakness of RAD is its disregard for quantity. How many documents of each type are there within each file or within the entire fonds? For example, when dealing with photographs, one wants to know the sizes, the finishes, the date, how far removed from the negative, technical quality, deterioration of any sort, and the quality of the view. More or less the same questions apply when looking at an autographed letter, or other manuscript. What are the earliest and latest dates? What is the quantity? What is the quality?

The appraiser then is ready to tackle the questions of value, rarely apart from the question of who might buy it, or where a potential market might be identified.

Some archivists object that since institutional policy forbids them to make purchases, then the value should be zero. This is a faulty argument, since it assumes the specific institution has a monopoly on such documents. Even so, I would echo the recommendation of the 1980 Ian Wilson report which suggested that archives should have an acquisitions budget, routinely and always. That budget could be used to pay the costs of fair market value appraisals, or to persuade donors to contribute to such a budget.

Let's suppose, for example, that the appraiser is looking at a large fonds created by Robertson Davies, and not in the large holdings at Library and Archives Canada or at the University of Toronto. Can we make a

case that the fair market value might be realized by a sale to an institution that has no acquisitions budget? You can see that the case is difficult. However, we can use the McMaster University historical precedent. When the university wished to acquire the Bertrand Russell papers in the 1960's it raised over \$400,000 by appealing to the university faculty and alumni. Clearly, someone has to have something really important in order to take this approach. However, institutions usually have discretionary funds or trust funds that can be accessed for more normal acquisitions.

Similar options might exist for communities, as well. Peterborough, for example, hired appraisers to give value to a large photographic collection that many had argued should be treasured by the community. The fair market value considered the likelihood that the community would have to raise the necessary funds, and built that into the calculations. When the community almost reached its target, the sellers moved the goal posts. The fair market appraisal was used as the basis for a second option: the collection was sold to a philanthropist who then donated the collection to the City for income tax and cultural property benefits. The appraisers had also noted that the collection could be sold in bits and pieces. There are lots of considerations and assumptions to be made, but at the end of the day it should be possible to see a sweet spot that suggests the likely fair market value. At NAAB we consider this an aspect of the process of triangulation.

The market was not hypothetical. Rather it was a real market operating at several levels, and open to different considerations. The Fair Market Value had legs. If monetary archival appraisals are carefully assessed, then they should be able to meet the tests of a real market. Appraisers, consequently, should be considering options about how the money might be reached.

By definition archival documents are unique; they are not available in a general market precisely because they have been donated. They have not been sold; that is why they are available for sale.

We know that we can use public sales to establish some benchmarks. Highly collectible letters from an earlier century might fetch several thousand dollars sold as a singular item. Others will only retain any kind of value if kept in a series. Other letters might be useful for context and for research, but in fact have no market as an individual item.

In the course of over thirty years of appraising manuscripts, NAAB has had workshops and conferences, and has maintained correspondence with manuscript dealers in the United States and Britain. We have discovered that there is no single standard against which to work. We have felt that our work is most analogous to the task of giving pre-auction values. We know that auctions are notoriously unreliable vehicles for determining fair market value because there is anecdotal data on collusion designed to drive up prices in order to add value to established collectors. We know of other cases where material is undersold, especially if estate taxes are involved. And we know everybody imagines their material selling at the height of the auction season when all possibly interested people are in the crowd.

There are noteworthy examples of institutions which have raised money from special friends, alumni, and contingency funds in order to buy collections of papers that were otherwise impossible to acquire. I think, for example, of how the National Archives bought a great Champlain map, or the Archives of Ontario bought John Beverley Robinson papers, or McMaster bought the Bertrand Russell papers, or the City of Peterborough acquired the immensely desirable photographic collection of its leading photographic family.

We know that there are established autograph and philatelic markets. We know that some universities need to acquire research collections in order to maintain their reputations for graduate studies and research. So we bring in people who are sensitive to different aspects of this wider world picture and we get their collective assessment of the collection. We have developed some sense of different values for

ALSs and TLSs, draft memoranda, literary manuscripts; that are sometimes external perhaps part of a public record, and sometimes part of collections which we have appraised and felt reasonably certain that we had succeeded in reaching fair market value in the past, and from which we might extract insights. The net effect of the enterprise is a process of triangulation that helps us to determine the reasonable range for fair market value, and then ultimately, the fair market value itself.

It is sometimes claimed that large research collections donated to major archives and universities do not have real markets. To me, this is not a helpful concept. It is far more useful to talk of a research market. The components are real. Universities do spend money on archives, as the McMaster example makes plain. Also universities need to build up research archives in order to justify expenses related to graduate studies in history, geography, sociology, law and architecture. In the 1970's we used to consider that if a collection would sustain an M.A. thesis, it was worth \$10,000. One could prorate upwards for doctoral theses, and of course, for the change over time in the cost of a graduate education.

Perhaps, the market is more limited and quiet, but it is real nonetheless. Distortion is caused, in part, because archives are deflected from availability.

Even when dealing with large research collections, it is important to consider the niches of markets that are contained in the larger. For example, Trudeau autographs have a tangible sale value in North America. I have seen large collections containing letters from highly collectible writers, such as George Orwell. Sometimes the large collections contain valuable books donated by grateful authors.

As with all collections being appraised it is necessary to take a wide view of market, and to build up one component at a time. We also need to consider the collection as a whole. One buys real estate by the total house and lot; not by appraising room by room. As we deal with unique items it is necessary to hypothesize about pertinent markets, but the markets are real, and the collections we appraise have real market value. We need willing buyers and sellers, and we need to know when the value is fair.

The following points were raised in discussion (*the speaker's comments are identified in italics*).

I work in the art section of Library and Archives Canada. Sometimes hot ticket items can get out of hand. Some buyers are willing to pay anything for this type of thing. The example you shared about the seaman's diary was not a normal circumstance, and is not reflective of a fair market value. *I accepted \$2,000 as the fair market value. What I liked about that example, is that it showed the need to consider the variety of markets interested in the same diary.*

11.3 Unleashing the Mystique of a Reasoned Justification (Sonia M. Lismer)

The CCPERB requires that appraisal reports include a "reasoned justification", especially when evidence of comparable sales is not available or does not exist. This session focused on the part of the appraisal report that explains the rationale used to arrive at the estimated fair market value. Discussions revolved around the identification of the most appropriate market, the reference to appraisal precedents, research value, establishing values within categories, etc.

Moderator: **Jim Burant**, Senior Curator and Chief of Art and Photography Archives, Library and Archives Canada

Speaker: **Sonia Lismer**, Manager, Movable Cultural Property Directorate, Canadian Heritage/Assistant Secretary to CCPERB

Jim Burant introduced his colleague, Sonia Lismer. Ms. Lismer holds a B.A. in English Literature and an M.A. in Art History, is currently the Manager of Movable Cultural Property/Assistant Secretary to the CCPERB, and has been accredited as an appraiser through the International Society of Appraisers.

Ms. Lismer noted that the handout provided at the session, titled *Unleashing the Mystique of a Reasoned Justification*, included a summary of the reasoned justification approach to value, and included some examples to stimulate discussion.

Reasoned justification is one of the more useful approaches to consider when preparing a monetary appraisal for archival and related material. The most straightforward approach to value, the sales comparison approach, enables justification of an estimated value by referencing past sales of comparable material. The cost approach is another approach that can be useful in combination with the reasoned justification approach to provide reference points for value, e.g. the lab cost to reproduce one foot of film. In fulfilling its responsibilities to determine fair market value for archival material, CCEPRB is often faced with situations where there is no market evidence simply because the material has not been marketed for purposes of sale.

The more comparable sales information is available to document an estimated value, the less information an appraiser needs to rely on in developing a reasoned justification. Conversely, the less sales information available, the more an appraiser needs to provide a reasoned justification in support of the estimated fair market value.

An appraiser of archival material will find it useful to combine more than one approach in preparing an appraisal report. The appraiser's role in developing a reasoned justification is to contextualize property in the marketplace, and to explain in which market the property would be sold, if the property were available for sale. Information is needed regarding why an item could be sold at the value estimated by the appraiser. When little or no sales information is available, it is important to refer to research value, rarity, quality, historical significance, condition, as well as previous monetary appraisals, where appropriate. CCPERB needs to get a sense of the scope and content of the material, and why it is being acquired by the designated institution, in order to properly assess the monetary appraisals submitted with applications for certification. For this reason, the collecting institution must be sure to provide monetary appraisers with a comprehensive finding aid and archival appraisal report.

The appraiser should be sure to identify those components of an archival fonds that have a demonstrated market, where applicable. Where the most relevant market may be an archival institution, it is important to consider what an institution would be willing to pay for a fonds, if it had sufficient funds to do so. Efforts should be made to instill a market context for archival material. The purchase price suggested would be based on the relevance of the fonds, its uniqueness, its research importance, etc. It is important to first consider the most appropriate market, identify the approach to value used, and then address the significance of the material in the context of the market.

The following points were raised in discussion (*the speaker's comments are identified in italics*).

Our institution submitted an application for a family fonds. Part of it was hived off by the CCERP as they felt it wasn't cultural heritage. We felt it had research value. Most of it was certified however one series was not. We were told that their decision could not be appealed, and were not given the opportunity to discuss the matter or the nature of the fonds.

CCPERB is required by the Cultural Property Export and Import Act (CPEIA) to determine whether material is of such "outstanding significance and national importance" that it should determine the fair market value and issue a Cultural Property Income Tax Certificate (T871). Where it does not have sufficient information, it will usually be in communication with the institution to obtain clarification or

additional substantiation. In the case mentioned above, the Board would have collectively concluded that a portion of the material was not inextricably linked to the rest of the material and consequently did not meet the criteria for “outstanding significance and national importance” as set in the CPEIA. The Board would not have been questioning the institution’s decision to keep all of the material together as a whole.

From an appraiser’s perspective, there are things that are not of outstanding significance and national importance. I would advise to not certify a collection of magazines, but would question why it was of significance. The appraiser should justify why something should be recognized as being of outstanding significance and national importance.

The institution, not the appraiser, is responsible for defending why elements meet the criteria for items of outstanding significance and national importance. The appraiser’s responsibility is to take into consideration only those elements relating to significance that have a bearing on estimating fair market value.

Almost any fonds of outstanding significance and national importance will contain some elements that are not of significance. Will this action be a future trend of CCPERB?

When CCPERB reviewed the Hudson’s Bay Company (HBC) collection, a full assessment was conducted through which only that material which HBC defended as meeting these criteria were presented before the Board. The Board recognized and respected that there were other components relating to the collection, even though they did not meet the criteria. A determination of fair market value can be appealed through a request for redetermination and then, if desired, an appeal to the Tax Court of Canada. However, when the Board concludes that property does not meet the criteria of “outstanding significance and national importance”, such decisions are final and not subject to a redetermination or appeal to the Tax Court of Canada.

Regarding the example presented in the handout about photographic records, almost 1,500 records were classified into four groups by an appraiser. Appraisers provided reasons for the application of the values of each of the categories. The appraisal should indicate the basis on which the values were arrived at. Although records were divided into separate categories for valuing the collection, the collection remained intact.

Correct.

Our institution has experienced a number of interventions by CCPERB regarding reasoned justifications of visual material. There is an accusatory tone in CCPERB correspondence, which implies the institution is trying to “pull something over them”. CCPERB should re-examine and re-consider their correspondence. The Board has tried to raise the values of some appraisals submitted, and has asked institutions to justify the values submitted. This creates a challenge, as a reasoned justification has already been submitted by the appraiser. Institutions are being asked to go back to the appraiser, and the NAAB Board, which doesn’t keep the institution in a “neutral” position. The Board has the right to raise the values, but why do they want institutions to interfere in the process?

Every application is considered on its own merits. The Board is conscious that its responsibility is to do its best to ensure that its decisions reflect market conditions around the time of the donation. That the Board tries to reduce estimated values is a myth. In fact, on various occasions, it has raised values estimated by appraisers. Its decisions are based on the information it has before it and given its own knowledge. The Board understands the work involved in preparing an application for certification. On occasion, where it feels that an estimated value may appear low, it may give the applicant the option, if it so wishes, to have an appraisal revisited or to obtain another appraisal. As the Board wishes to engage institutions, appraisers and donors as important stakeholders and therefore participants in the certification process, the feedback above is appreciated. Efforts will be made to clarify this message in the future and to consider the tone in which messages are delivered.

In the past few years I've made submissions to CCPERB for contemporary documentary photography material. The Board views this as "art" and has a problem understanding the differences between documentary and art photography. Is there a way to enable official dialogue between CCPERB and the archival community, to help the Board understand differences in these collections? There are a limited number of archival experts on the Board.

The institution's explanation should address the value of the materials. Each case is considered on its own merits. Perhaps the Board is recognizing the artistic value of the material. Market information should not be excluded from the appraisal. The Secretariat categorizes material based on the group they fall into, which is particularly difficult with photography. If in doubt, the Secretariat considers how the institution will be including the material in its collection. The Board is not trying to make appraisers' jobs more difficult but is rather seeking the values that best reflect market conditions.

It is helpful to include a good explanation in the appraisal report, to ensure it's assessed correctly by the Board. How can I change my reports to ensure the Board receives them correctly?

First, it is essential that the appraiser refer to the Board's Policies on Appraisals and its Format for Appraisals, which are available on the Board's website. Secondly, the appraiser should consult the Board Secretariat when clarification is needed. Thirdly, the appraiser shouldn't lose sight of the fact that its responsibility is to estimate fair market value and therefore to focus the appraisal report on market-related factors, and to articulate in writing the thought process that lead to the estimation of value.

Some photographs can be looked at as documents, and also as art – they may be appraised at the higher value, as they have a real market value. The Board may recognize the fine art aspect of the photos which the appraiser may not have recognized.

Correct.

I'm not concerned about over-valuing photographs, I'm more concerned about under-valuing them. The photographs I'm referencing weren't presented as art, however were considered by CCPERB as art.

The role of the appraiser is to recognize that there may be more than one market. It is important to cite that market where the highest values are likely to be consistently achieved. Within a fonds, it may be pertinent to engage the expertise of a dealer in relation to part of a fonds with a potential marketability. Again, appraisers are encouraged to consult the CCPERB Secretariat for guidance. Communication through a well-prepared reasoned justification is critical.

In conclusion, Ms. Lismer noted that the CCPERB reviews on average over 1,000 applications annually, and issues Cultural Property Income Tax Certificates (T871s) valued at over \$100 million a year. The reasoned justification approach is important in the development of appraisals for archival and related material, as it takes into consideration multiple elements that then tumble back to the criteria of outstanding significance and national importance, and where applicable to the estimation of value. This tax credit program continues to be effective in an environment where many collecting institutions have very limited or non-existent acquisition funds.

SECTION 12: PLENARY SESSION 2

12.1 *The Future of Monetary Appraisal in Canada* (Marcel Caya, Ken Larose, Elwood Jones, Stephen Lunsford)

Moderator: **Fred Farrell**, Manager, Private Sector Records, Provincial Archives of New Brunswick and Board Member, CCA
Panelists: **Marcel Caya**, Chair, NAAB
Ken Larose, Vice Chair, NAAB
Elwood Jones, Regional Director, Ontario, NAAB
Stephen Lunsford, Assistant Regional Director, British Columbia and Yukon, NAAB

Fred Farrell noted that the next presenters would address many of the 38 questions submitted by delegates on their “Question Cards”. The questions generally fell into the following categories: the organization of NAAB and/or the CCPERB; appraisal training; and the emerging digital field.

Questions were raised regarding the quality of finding aids, which has been a challenge for appraisers and archive users, and a major capacity challenge for archives. Capacity questions facing CCPERB were also submitted. Improved communications, requested on many of the question cards, will only improve with improved capacity. After the panelists have made comments, participants will be welcomed to ask further questions.

Marcel Caya noted that the Carroll Report was not complete, as some issues required further efforts. The report gathered information regarding how the country perceived the role of NAAB, recognized some of NAAB’s strengths, and also identified areas requiring improvement.

He then reviewed the “NAAB Work Plan”. During the review, he suggested that the partnership with the CCA should be encouraged as it provided a link to institutions. NAAB has been limited to appraising only donations of archival material to institutions, and will likely continue to concentrate on donations. NAAB will also continue to develop its relationship with CCPERB, with the hopes that CCPERB will be more understanding about the fluidity of archival donations and difficulties in appraising them.

In the short term, there is much work to be done. It is important to improve and streamline procedures, so that it won’t take forever to process the work of the committees. NAAB’s website will be enhanced with additional content, information and articles to provide those interested in archival appraisal, with a point of reference.

To inform the general public and donors it is important to develop education and training programs with partners. Curriculum and/or content needs to be developed, for seminars which could be held across the country at regional association meetings or otherwise. NAAB will also be making improved efforts to promote itself.

NAAB’s standards should help confirm the quality of service NAAB offers to the Canadian community. Members involved in appraisal committees should have access to previous appraisals. Efforts will be made to enable this via a secure intranet site, to maintain the information’s confidentiality.

Some medium term objectives (e.g. six to eighteen months) include the development of a business plan focused on enlarging NAAB’s membership and clientele. An outreach strategy will provide information regarding how to become a NAAB member. Ways of injecting new energy into the organization will be

examined. A code of ethics and conduct for NAAB membership will also need to be defined. More meetings of experts, stakeholders, and those interested in monetary appraisals, will be scheduled.

Some of the organization's long term objectives include efforts towards the compilation of additional information for global institutional appraisals, in concert with the institutions. A larger revenue base for training opportunities will be sought. NAAB will continue to be incorporated as a not-for-profit organization. There is a lot of volunteer work contributing to NAAB; the Board of Directors all participate on a volunteer basis.

Stephen Lunsford addressed questions submitted relative to NAAB's role in providing appraisals and training others as appraisers. The NAAB system is best described as a mentor program.

Steps have been taken to modify NAAB's format. Efforts are needed to incorporate models existing in other professional organizations, to make the appraisal process more transparent. Appraisal training programs elsewhere incorporate some elements of a mentorship program.

NAAB must examine how to provide its clients with a better product, and should be further challenged to make the "right decisions". It must consider looking outside the system and incorporating elements from existing programs, to allow the organization to grow and attract others. NAAB should host more conferences and training programs where other models are used.

Elwood Jones replied to the following points submitted on "Question Cards". (*Panelists' comments are identified in italics*).

What is the best approach to determining monetary value on digital materials?

We do have models that have been developed. At least ten digital appraisals have been done through NAAB on digital materials. Efforts are proceeding towards a model in this regard. It is important to gauge where the market is, and how we can work with it. An agreement is needed regarding how to define original versions.

How do I find NAAB appraisers in my area?

Start by contacting the NAAB Regional Director, as they can assist in making these connections. This name is available on the NAAB website.

What about in-house appraisals for funds under \$1,000?

Archives need to know when something is worth over \$1,000 to make arrangements to get an appraiser to come in. Appraisers must have archival credentials.

Can in-house appraisals be valued over \$1,000?

This depends on CRA. In-house appraisals have been done up to \$1,200 to \$1,300.

Given the changing nature of archival materials, will current monetary appraisals become less and less relevant for the true value of these records, if intellectual property rights cannot be a determination of their value?

There are certain things that can not be taken away. It is difficult to separate intellectual and real material. Like it or not, the intellectual element informs the fair market value. It is important to remember that fair market value, refers to the current market value. Although CCPERB is future-oriented, there are difficulties in determining future values.

What can be done for archive donations offered from US citizens? NAAB can do the appraisals, but which tax regime would cover this?

The institution is not obligated to accept an appraisal. The appraisal is a deliverable which the institution can use, on which to base the issuance of a receipt to the donor.

What does NAAB consider its constituency? Who is NAAB accountable to?

NAAB is associated with CCA and CCPERB and is a providing service to Canadian institutions. They should advise where changes are required. Until two years ago, NAAB acted in a fairly isolated manner. Channels are being established with the Canadian archival community.

When would an institution use NAAB rather than an independent appraiser?

The dealer rate for NAAB is \$450 and the regular rate is \$350. A private appraisal could cost \$1,000 per day. NAAB appraisers appraise the same way whether through NAAB or while doing private appraisals. NAAB offers a full service. In Ontario for example, it is not easy to do an inexpensive appraisal in Sudbury or Thunder Bay, as most appraisers are in the south. If business picked up in the north, then appraisers would be locally retained. There are limitations in building up regional bases of appraisers. Independent appraisers become more attractive when they're local, as hotel and transportation costs are avoided.

Is it possible for the NAAB team to develop a list of institutions' expertise?

We sometimes ask institutions for suggestions. Sometimes they are aware of the expertise necessary to appraise a fonds. However, as part of the arms length condition of the appraisal, the institution can not appoint members to the committee. This is the role of the Assistant Director who considers all factors, and ensures there are no conflicts of interest. Suggestions are welcomed; however, such determinations are not possible.

Farrell then welcomed delegates to participate in a question and answer session, which prompted the following comments and questions. *(The italicized responses were provided by a panelist).*

I understand policies and procedures are being reviewed. It is important to examine the future of NAAB and look at its past 37 years. NAAB's website states that information is available, regarding the organization, its policies, and appraiser's qualifications, which has not existed or has not been available.

In building the website, it became apparent that there was a lot of content that could have been put on the website earlier. The list of NAAB Directors will be accessible on the website within the next week. We realize how obsolete certain statements are, and recognize the urgency to consider many parameters of the organization, particularly relative to membership. As soon as logical statements have been developed, their draft versions will be posted on the website, and input regarding their content will be welcomed.

Regarding the question about American citizens donating archives to Canadian institutions, there is an organization called the "American Friends of Canada". Although the process is somewhat complicated, information regarding the process is available through Library and Archives Canada. Information can also be obtained by contacting Jill Delaney.

There is a broad spectrum of knowledge held by conference delegates. This reinforces the need for additional training, which could be sponsored by other organizations.

There have been many comments made about improving the lines of communication in a variety of ways. In addition to the remarks about developing NAAB membership, policies and procedures, does NAAB plan to develop a communications plan to disseminate information about its services to the archival community? Does it have sufficient means to do so? This could include communications with the profession, donors, and institutions in terms of the services provided, in addition to promotional activities. *NAAB representatives have attended numerous meetings, including meetings of the Association des archivistes du Québec, Association of Canadian Archivists meetings and some regional association meetings. The overall strategy is that NAAB will produce a business plan which will place dollar figures*

on what will be needed to achieve the plans objectives. A timetable will be provided to explain the evolution of the organization. On a continuous basis, NAAB will attempt to address its stakeholders. As a communications plan will emerge naturally from the business plan, an expected completion date of the communication plan can not be determined at this time. Expressions of interest to assist this process have been received.

The organization's success will come automatically if NAAB: produces a product with added value; creates procedures that appear "above suspicion"; develops a process which doesn't enable donors to manipulate the process; and convinces CCPERB and CRA representatives that there is room for a larger role for NAAB. It will be important to reach the right key people, through some "backroom work".

Could NAAB commit to producing an annual report on a regular basis that is accessible via the website?
The idea of an annual report is a significant suggestion. NAAB's website could broadcast this information electronically, while avoiding the typically associated printing costs. It is important to promote the donation of records and valuable archives to institutions. The overall strategy developed must reflect what Canadian institutions want to do.

Participants were encouraged to submit their completed Conference Evaluation Forms, to help determine strengths and weaknesses of the sessions, and to help design future events. Farrell concluded by noting that the conference had demonstrated NAAB's commitment towards change and renewal.

