

Book Reviews

Trusting Records: Legal, Historical, and Diplomatic Perspectives.
HEATHER MACNEIL. Dordrecht: Kluwer Academic Publishers, 2000. 163 p. ISBN 0-7923-6599-2.

A professional community must have a solid conceptual foundation on which to build its practices. For at least a decade, the archival community has been concerned with the nature and preservation of trustworthy electronic records. From the viewpoint of law, history, and diplomatics, *Trusting Records: Legal, Historical, and Diplomatic Perspectives* provides an interdisciplinary analysis of record trustworthiness, which is a foundational archival concept, and one of continuing relevance to the electronic environment. Each discipline is also studied in relation to its assumptions about records as evidence.

The author, Heather MacNeil, is an Assistant Professor at the School of Library, Archival and Information Studies of the University of British Columbia, a colleague and co-researcher with Luciana Duranti, and a leading interpreter of diplomatics in Canada. *Trusting Records: Legal, Historical, and Diplomatic Perspectives* is a revised version of her doctoral thesis. The conceptual framework of the book is diplomatics, which was originally predicated on principles of record authenticity that could apply to any juridical system and in any time and space to establish both legal and historical truth on the basis of documentary truth. European diplomatics has been an important influence on both archival theory and practice in North America, and has been referenced in record-keeping models elsewhere. It has also provided the conceptual basis of major international records and archives research projects, such as the InterPARES Project (*International Research on Permanent Authentic Records in Electronic Systems*).

Professional literature on record-keeping has pointed to the need to extract knowledge from other relevant disciplines. It is therefore important to encourage the research and publication of books of an interdisciplinary nature, and to disseminate the findings both within and outside the profession. In fact, histo-

rians and lawyers, as well as archivists, records managers and information systems professionals, should read MacNeil's book, which also contributes to a small, but very important literature in English on contemporary diplomatics. It is a highly scholarly text which has both breadth and depth.

MacNeil focuses on the two qualitative dimensions of record trustworthiness; that is, reliability and authenticity. From the perspective of diplomatics, the creation and maintenance of record-keeping systems were assured in bureaucracies not only through the authority, delegation, and procedural controls on the record writers and record-keepers, but also through the record's form of composition. How this has changed and its consequences are explored by MacNeil.

Written within an historical-analytical model, MacNeil's analysis of historical and legal perceptions of documents as evidence, that is, so that "justice may be realized or the past understood," also supports the twin pillars of archival science: the preservation of evidence and memory. An important interdisciplinary theme throughout the book, echoed by Carlo Ginsberg in *The Judge and the Historian*, is that law and history through time have both converged and diverged on the nature of the record as "proof" or "truth" of a fact. MacNeil also touches on the wider postmodern discourse on the nature of a record as a representation of truth, and the impact of the writings of various well-known postmodernists, such as Barthes, Saussure, and Foucault.

Structurally, the book is clearly organized into four major chapters, with headings and subheadings within that reflect a progression of themes, but are also self-contained. For example, if the reader is only concerned with the theme of records as legal evidence, Chapter Two can be read on its own. Any serious reader should consult the informative notes related to each chapter found at the end of the book (although it would have been preferable if they were footnotes, or at least placed immediately at the end of each chapter to improve their accessibility). In addition to the notes, the index is an important feature of this book; a random selection of topics revealed that most were easily located within the index. The bibliography reflects the wide discourse undertaken in the research.

Chapter One covers the evolution of the concept of record trustworthiness, including the birth of diplomatics, and condenses complex Western epistemological thought from the Roman era to the present, for example, probability theory and evidence as inference which provided the broader frameworks in which historical and legal thinking developed. Important themes unresolved by law and history are analyzed: What is a primary source? Is it the record or is it the witness? Other themes explored are the development of context and language as tools for document analysis, the adoption of legal concepts by historians, the principle of record contemporaneity as essential to its reliability as a source, and the divergences between "legal" truth and "historical" truth.

Chapter Two covers rules governing the admissibility and weight of docu-

mentary evidence in common-law jurisdictions generally, and Canada specifically, in particular revisions to the *Canada Evidence Act* and provincial *Evidence Acts*. The chapter commences with the salient differences in rules of evidence in the common law from the civil law system. It examines the origin of common law rules of evidence, including its Roman law features, for example, the best evidence rule. The relationship between the observer and the event resurfaces in the analysis of rules of evidence, in particular hearsay. There is a separate treatment of Canadian statutes and cases in relation to reliability and authenticity. There has been a shift in evidence rules with relation to the weight given to records in court, away from simple acceptance of the record, and towards a verification of the integrity of the record-keeping processes that produced it; this shift is, as MacNeil observes, "the key to proving the integrity of the record." This is a trend also found in modern evidence law in Australia.

Chapter Three examines historical methodology used to test record authenticity, including legal rules. For the historian, an unreliable record could still be used as historical proof. A section is devoted to postmodern critiques of historical evidence in which the record is an expression of reality rather than reality itself. The chapter concludes with a detailed analysis of American court cases involving historians that failed to take the opportunity to clarify what constitutes a complete and reliable record, particularly *Armstrong v. Executive Office of the President*, and *Public Citizen v. John Carlin*.

Chapter Four is a detailed summary of modern diplomatics, and its application in the three-year research project, "The Preservation of the Integrity of Electronic Records," often referred to as the UBC Project, which ran from 1994 to 1997. The author concedes that record trustworthiness based on diplomatics has been built around the Weberian model of bureaucracy that relies on rules and regulations to control the actions of record creators. As individuals in modern organizations respond less to structured rules, the rules are being replaced by technological intervention. Resentment that may arise from what is seen as surveillance rather than supervision is an important social aspect of record reliability in the current electronic environment.

The conclusion is an excellent summary of the inherent problems of assessing the trustworthiness of a record that ultimately depend on the reality constructed by law, history, and diplomatics. There is no universal view of what is a trustworthy record; its constant re-evaluation by the archival profession is part of a continuing professional discourse to which this book contributes admirably.

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