Archival Science **2:** 45–61, 2002.

Cortes's Notary: The Symbolic Power of Records

JAMES M. O'TOOLE
Department of History, Boston College, Chestnut Hill, MA 02467 USA (E-mail: otoolejb@bc.edu)

Abstract. This article explores the relationship between records and various expressions of political and social power. Records are often made and used for explicit, instrumental purposes, designed to put into effect the plans and desires of those with the upper hand in certain relationships. They may also be used to enhance subtler forms of symbolic, emotional, and psychological power. Drawing on a selection of historical examples, the essay argues that record making itself can sometimes be as potent as any particular records resulting from that process. The essay concludes with some speculations on how these powers inherent in records may be changing in the context of current technological developments.

Keywords: archival theory, literacy, record-making, resistance, tyranny

A conquering army proceeds inland "in the face of the enemy," while its fleet waits offshore. Encamping with his men before the first fortified town to offer resistance, the commander makes the appropriate military plans, sending a detachment of troops around to attack from the rear while he leads an assault from the front. Before the battle begins, however, he conducts a strange ritual. An interpreter who knows something of the language of the badly outnumbered townspeople stands in front of the troops and, in a loud voice and "lofty tone," he shouts out a proclamation to the opposing camp. The proclamation tells them "that if blood were spilt, the sin would lie on their heads, and that resistance would be useless." The attempt to shift blame from the aggressors to the defenders is common enough, and it meets the expected response: "shouts of defiance and a shower of arrows" from behind the fortifications, whose guardians have probably understood little of what the orator has said in his broken dialect. But then, an even stranger thing happens. The leader of the invasion causes the proclamation to be written down – "duly recorded" – and a notary, who is traveling with the army precisely for this purpose, attests to the fact that the warning has been both given and recorded in the proper form; only then can the battle begin. The town is quickly overrun, its inhabitants slaughtered.[1]

[1] William Hickling Prescott, *History of the Conquest of Mexico* (New York: Modern Library, 1980; orig. pub., 1843), p. 153.

After the victory, the notary is called upon again. According to what is identified as the "usual" form, the victors take official possession of the place. To do so, their leader makes three cuts with his sword in the bark of a massive ceiba tree and declares aloud that he is claiming the entire surrounding territory in the name of his faraway king, promising to defend it against any force which tries to take it from him. His troops repeat the same formula aloud, after which the notary again makes and verifies a written record of the whole proceeding. This "was a good title, doubtless," a later and slightly skeptical observer would remark.[2] Thereafter, the army proceeds on its way, quickly taking one city after another until a once mighty empire has fallen before it. At every step, the same procedure is followed, with the notary recording and verifying the conquest, investing the fruits of warfare with the validation of law.

These remarkable scenes were episodes in the conquest of Mexico by Hernan Cortes, beginning in the early spring of 1519. With only about five hundred armed men, Cortes was able to bring down the empire of the Aztecs, helping to establish the claims of Spain in what was still to him and his countrymen a New World. The tales of battle and the subsequent notarizing of victories were themselves recorded more than three centuries later by a nearly blind historian in his study in Boston, William Hickling Prescott, whose *History of the Conquest of Mexico* (1843) still stands as a landmark in American historiography. The hapless notary who was dragged from one battle to the next goes unnamed in Prescott's account, but we know from other sources that he was Diego de Godoy, who travelled with Cortes's army from its base in Cuba all the way to the Aztec capital at what became known as Mexico City. Godoy's own biography is less compelling, however, than the small but revealing role he played in this grand historical drama.

It may seem strange to us that a conqueror like Cortes thought it necessary to bring such a man along with him. To do so entailed considerable expense and bother. He had to pay Godoy's salary, feed him, care for him should be injured, and most importantly provision him with the special supplies, in the form of expensive and inconvenient writing materials, which he needed to perform his notarial duties. These all represented resources which could well have been expended on someone else, someone of more immediate use in the business of conquest – in short, on another soldier. But apparently, Cortes considered a notary no less central to his work than any one of a number of other non-fighting personnel: cooks, wagon drivers, and the like. That Cortes would not have thought of embarking on his expedition without a notary is a testimony to the powerful hold which records and record making had over his

[2] Ibid., p. 154.

mind. It is his concern for record making – for proper, "usual" documentation – that attracts our attention in this essay.

Living as we do in a culture so dominated by literacy and the written word, we sometimes overlook the multiple layers of meaning which are inherent in most acts of record making and in the records that are made. Each of us makes so many records in the course of a day that we cease to take much notice when we do. We write cheques to pay bills or we sign credit-card receipts; we execute contracts and other legal documents, affirming them with signatures; we send e-mails to professional colleagues and to people we have never met; we enter passwords as we log on to web sites; there may even be some people who still write personal letters to family members or friends. We take for granted that others can read these writings and that, if they cannot, they should learn how to do so. Moreover, we are accustomed to the idea that there will be substantial compilations of recorded information, more or less accessible to anyone, in the form of libraries, archives, web sites, and other media. All these record-making actions and their products have become so familiar to us that we may easily miss the complex of reasons which have called them into being in the first place. Similarly, since records are so much a part of our mental furniture, we may not notice the variety of uses to which they are put. Most of the time, of course, recording information serves practical, utilitarian purposes. Records allow us, for example, both individually and collectively, to "forget" things by storing the knowledge of them outside the mind, while nonetheless keeping them available for retrieval and recall when needed. Records allow us to count to higher numbers and more reliably, thereby keeping track of many complicated things. Writing allows us to remember things in precise, particular ways, freezing the language of poetry and literature. It allows us to span physical distance, sending messages from here to there even when we cannot go in person, thereby disseminating information more widely than would otherwise be possible. It allows us to span time, speaking, as Prescott now does, to persons in the future whom we will never know.[3]

Even if these mundane motives are present in some (perhaps most) record making, the experience of Cortes's notary reminds us that records may serve larger purposes as well. The practical impact of his notarized evidence of conquest paled in comparison with the fact of conquest itself. As Prescott observed, the notarized titles were "doubtless" good enough against anyone who might challenge them, but Cortes probably never really expected that to happen and, indeed, it never did. Why, then, was he so careful to make

[3] Though it is not without its critics, the best introduction to many of these issues remains Walter J. Ong, *Orality and Literacy: The Technologizing of the Word* (London: Routledge, 1982).

his records and to be sure that they were made in the proper legal form? It may not be difficult to understand why he, a man steeped in the culture and the traditions of medieval and early modern Spain, followed these procedures. He knew, for example, that a notary was necessary under existing Spanish law to accomplish the purposes he had in mind; the testimony of another soldier or even a priest was insufficient to establish that the legal requirements had been fulfilled.[4] But this concern for the making and keeping of records was not limited to Cortes's time and culture. Examples of it abound elsewhere, and this suggests that there is something about human culture – perhaps about human nature – which demands the making and keeping of records. To understand the role of records and documents in human affairs, we must try to recover the larger meanings of records and record making and to explore in particular the singular powers records possess.

* * *

As the experiences of Cortes and his notary demonstrate, the act of record making can sometimes be more significant than the record resulting from that act. When the notary cleared the way for Cortes to move against the town of Tabasco, no defeated natives of the place came forward, asking to examine the notarized record to discover whether they had been legitimately conquered – if there is such a concept. No loophole or imperfection in the document could undo their defeat. Nor was the representative of any other European power likely to challenge Spain's right to hold the territory – in what court could they bring such an action? – though Prescott was sure that, had they done so, the title which Cortes had thus established could withstand scrutiny. It was "doubtless" a good title, the historian thought. Rather, the act of record making here was important in and of itself, serving to legitimize what had happened in the eyes of the Spanish. The act and the deed – that is, the things that had actually happened, the facts of conquest – were confirmed with documents, some of which acts would themselves be designated by their homonyms, "acts" and "deeds," meaning written instruments.[5] The actual record made by the notary might not even survive for very long, but that mattered little. It was the making of the record that counted.

[4] On this point, see Richard Lee Marks, *Cortes: The Great Adventurer and the Fate of Aztec Mexico* (New York: Knopf, 1993), pp. 48–49. Still useful in placing Cortes in his own context is Howard Mumford Jones, *O Strange New World: American Culture, the Formative Years* (New York: Viking, 1952), pp. 137–139.

[5] Hugh Taylor, "'My Very Act and Deed': Some Reflections on the Role of Textual Records in the Conduct of Human Affairs", *American Archivist* 51 (Fall 1988): 456–469. I have also explored some of these issues in James M. O'Toole, "The Symbolic Significance of Archives", *American Archivist* 56 (Spring 1993): 234–255.

The act of record making remains significant today, often more significant than any records which result from the process. Whether it is carving your initials and those of your first sweetheart into a tree-trunk or writing a letter to a public official which he or she will almost certainly never read, writing and recording retain their significance for us as both private and social acts, independent of any practical effect. Signing guest books, for example, at funerals and receptions are occasions in which record making counts for more than records themselves. It may be theoretically possible that someone will later consult these books for information, but the motive is more likely to be an emotional one than a subsequent need to check attendance. The most interesting example of this largely symbolic record making which I have encountered was the case of a small women's college which celebrated the 150th anniversary of its founding a few years ago. At every public event connected with the sesquicentennial, participants were asked to sign their names to a scroll headed by the date and an identification of the occasion. At the end of the celebratory year, all the separate scrolls were pasted together, one after another in chronological order, to form a single scroll that was 169 feet long. The record thus made has some interest in its own right, if only as a very curious object, but what mattered here was the making of the record. All those students, faculty, and alumnae who signed their names were indeed creating a record of who had attended which event, and someone could conceivably (though with difficulty) use the scroll to see who had been there. More importantly, however, the signers were signaling their emotional attachment to the college in making this record, tying their personal legacy to a collective legacy (to use David Lowenthal's categories) through an unusual instance of record making.[6]

The form and format in which records are made may also reinforce this broader significance of record making. The meaning of records is more than skin deep because, through a series of cultural conventions which themselves deserve careful study, we have come to expect that some documents will have a certain look to them and that their authority will depend, at least in part, on their appearance. We demand that school diplomas, for example, will have a particular look to them and even a special sort of feel. They are generally produced on a heavy paper that is designed to simulate parchment – they are still colloquially known as "sheepskins" – and their lettering is fancier than an average typeface, to say nothing of the highflown language, often in a foreign tongue, by which they convey their information. Some of the

[6] David Lowenthal, *The Heritage Crusade and the Spoils of History* (Cambridge: Cambridge University Press, 1998), chs. 2–3. I have described this compound scroll in "Symbolic Significance of Archives", *American Archivist*: 244–245, which also contains a photograph of it, draped down three flights of stairs.

information in them may be incorrect, or at least misleading. One of my own diplomas describes me, in Latin, as "a youth upright and well-born," and it maintains that I "unceasingly" applied myself to my studies: while I was indeed a comparative youth at the time, the other characterizations are less accurate and one of them (I will not say which) is distinctly untrue. Such a diploma is hardly a practical record, valued for its information content. The more real and useful documentation of academic accomplishment is probably the student transcript, but few of us have ever seen one of those framed on our dentist's wall. Instead we want the assurance of what we take to be a proper diploma, one with seals and signatures, the latter of which are most likely to be mere reproductions designed to look real.

Seals, of course, have a long history, rooted in pre-literacy, and their use has been persistent. So effectively do they seem to convey authority in the record-making process that their use in some circumstances became mandatory, even transcending otherwise insurmountable barriers of class and status. In medieval Britain, for example, seals were originally the prerogative of royal administrators and the nobility, but their use quickly spread. By the thirteenth century, even bakers had them and were expected to use them. The demand for seals has survived practically undiminished into fully literate cultures like our own. A colleague, the archivist of the state of Vermont, informs me that the lack of these familiar documentary trappings may be problematic. Notaries public in Vermont are not required to use seals when they attest legal documents; some of them do, but many do not. In the absence of these expected symbols of authority, the trust normally accorded notarized records is undermined, and the state archives is called upon regularly to determine from other records whether a particular person was indeed a notary at the time of certifying a document. In many instances of this kind, we expect the format and appearance of records to reinforce their meaning, and we are left a little uneasy when they do not.[7]

The importance of record form and appearance is also evident in the many kinds of documents that retain some of the trappings of hand-written originals in spite of their obvious status as mass-produced copies. Printed forms, for example, or blank ballots that are printed with reproductions of signatures, demonstrate the enduring need for this reassurance of validation, but even more telling is case of paper money. Currency in the form of words written or printed on paper rather than stamped onto precious metals became the norm in most countries in the West during the nineteenth century, though coins

[7] On the persistent power of seals, see M.T. Clanchy, *From Memory to Written Record: England, 1066–1307*, 2nd edn. (Oxford: Blackwell, 1993), pp. 308–317. The sometimes problematic absence of seals in present-day Vermont was conveyed to me in a private communication from D. Gregory Sanford, 18 December 1989.

also remained in use, especially for the smaller denominations. Paper money bills were originally hand-written notes, signed in person by an official of the bank that stood behind them. Because they are inherently more flimsy than coins, however, and carry no embedded physical value, unlike silver or gold coins, banknotes need help in reassuring their users that they are authentic and efficacious, and the producers of such notes gain support by giving them an acceptably formal appearance. At first, the paper currency in most countries was phrased as a text, often taking the form of an oral instruction to "pay the bearer" a certain sum; personal cheques still use this language, for the most part. More recent currency is no longer phrased in the imperative voice, but it still contains textual as well as symbolic reassurance. United States bills say, "This note is legal tender for all debts, public and private," while Canadian bills announce more succinctly (though bilingually), "This note is legal tender." Perhaps more significantly, paper bills also bear other characteristics that speak to deeply ingrained expectations of what they should look like. The front usually presents the likeness of some worthy national figure, and there was a bit of aesthetic carping when the new Euro did not. In earlier coinage, this likeness was usually that of the incumbent ruler, by whose authority the money was declared valid, but most often today the image is that of an historical personage, a shift that may or may not suggest greater humility on the part of contemporary leaders. Most significantly, currency also contains facsimiles of the signature of one or more officials – on the old Italian lire, both the president and the head cashier of the Bank of Italy appeared to have signed the note – and these signatures, though plainly not originals, were essential. As the historian David Henkin has observed, they constitute a kind of implicit contract between the authority issuing the note and its subsequent users.[8] Currency lacking these characteristics would be less acceptable: here as in other forms of recorded information, appearance matters.

Regardless of the variety of forms which records may take, record making is not always so benign as these examples suggest. More often than we may realize, record making is primarily about power. As with Cortes, those who have power confirm it, and perhaps salve their consciences about its exercise, by the making of records. We know, for example, that Domesday Book, one of the most famous written records in the West in the last millennium, was not so much about the practical administration of the Norman kingdom in Britain as it was about establishing the legitimacy of the realm's new rulers. When William the Conqueror sent his agents out to compile this massive inventory

[8] See the very useful discussion of paper money in David M. Henkin, *City Reading: Written Words and Public Spaces in Antebellum New York* (New York: Columbia University Press, 1998), pp. 137–165.

of land, property, and feudal obligation, his primary intention was to make a point rather than to make a record. Indeed, Domesday was seldom consulted in any legal or administrative proceeding during its first two centuries. The specific information it contained went out of date quickly. People died, land changed hands, and so on; thus, its immediate and near-term practical usefulness was limited. Rather, it was the taking of the inventory and the compiling of the results which underlined over and over again the central fact that power in the kingdom had been transferred. Even the farm animals and the trees of the English were now subject to the authority of their new king, who took official cognizance of them in this record and thereby asserted his mastery over them. The inventories carried as much psychological weight as they did useful information.[9]

The power of records for good or ill derives in part from the nature of writing itself, especially in comparison to the inescapably interpersonal characteristics of oral communication. A written record does not require direct, face-to-face interaction. Moreover, a record is difficult to challenge, question, or correct as one would another person in conversation, simply because it is so impassive and therefore insistent. It makes its case by unwavering repetition of its contents rather than their expansion and elaboration, as one would do orally. Socrates observed this power in writing early on, expressing his scepticism about what was, to him and his contemporaries, still a relatively recent invention. Written documents "seem to talk to you as though they were intelligent," the philosopher famously demurred in the *Phaedrus*, but if you asked them to explain themselves or to speak of related matters, they simply "go on telling you the same thing for ever. ... If you question them, they maintain a most majestic silence."[10] We should note, of course, that we know of Socrates's objections to writing only because they were themselves written down by his fully literate pupil, Plato. Even so, we must acknowledge the aptness with which he characterized our responses to the power of writing. The insistence of recorded information simply wears us down, and we yield to its power.

In some cases, the anonymity of records enhances their power. Even when we are unclear about who is speaking the words of a document, we are accustomed to obey.[11] Some records are addressed vaguely to "all to whom these presents come," but they are credited no less for the indeterminacy of

[9] Still the best general survey of Domesday and its changing uses and meanings is Elizabeth Hallam, *Domesday Book Through Nine Centuries* (London: Thames and Hudson, 1986).

[10] *Phaedrus*, R. Hackworth (trans.) (Cambridge: Cambridge University Press, 1952), pp. 274e–275e. For a useful discussion, see also Henri-Jean Martin, *The History and Power of Writing*, trans. Lydia G. Cochrane (Chicago: University of Chicago Press, 1994), pp. 90–94.

[11] On the impact of anonymity, see Henkin, *City Reading*, pp. 16–17, and elsewhere.

who exactly those people are. The possibility that some unseen authority is watching us to be sure that we honour the wishes or instructions of the record is enough to elicit our compliance, even in the remotest circumstances. Deeds and contracts of all kinds are drawn as narratives of agreement between the parties, and these documents may be attested to by someone else, who simply asserts that he or she was present at the time and saw the principals make the agreement, often adding for good measure that they did so of their own free will. Those who encounter such a document in the future probably do not know any of the people in question, but that lack of personal knowledge seldom raises doubts if the silent document appears to be in the expected form. Did these people really agree to these terms? And just who is this third person, equally a stranger to us, who says they did? Such questions rarely occur to us unless there is something about the record itself – the look of the thing is suspicious, the signatures seem inauthentic, changes have been made in the text – to arouse our suspicions. Most of the time, we trust writing without a second thought.[12]

Power is less easily resisted when we are unsure about where it is coming from, and records, for all their precision, may take advantage of this uncertainty. Like Orwell's Big Brother, they have a more ominous power because we don't fully know who they are, and we fear to test them. To be sure, knowing the source of records sometimes disposes us to defer to them: for archivists, this is what provenance is about. The origins and context of a record may be an important part of its authority. But that authority is often attenuated and certainly depersonalized over time. I know nothing of the man who surveyed the land on which my house sits and drew the line between me and my neighbour. I take on faith that he did all this properly and that he indeed held the official position which a silent document says he did. Though named and identified by position, he remains essentially anonymous to me, but I trust him nonetheless.

In spite of its frequent anonymity, the power inherent in writing is sometimes transferrable to those who master that special skill, particularly in societies in which writing is new and its uses still subject to experimentation. In virtually every culture undergoing the transition from oral to literate forms and habits, writing is initially the province of small elite groups. This situation derives in part from the practical necessities of mastering this new skill, one whose widespread usefulness may not be immediately apparent. Teaching someone to understand and use literacy, particularly where there is no formal system of universal schooling, is expensive and time consuming, and the benefits of doing so may be hard to imagine beforehand. Why should

[12] On the critically important matter of coming to trust writing, see Clanchy, *From Memory to Written Record*, pp. 294–327.

an able-bodied worker be taken out of food production or profitable trade and devoted instead to learning the science of making and interpreting little marks on various kinds of surfaces? The decision to redirect such a person's energies would obviously have to be made by someone with enough power to enforce a counter-intuitive decision to sacrifice immediate benefit for an advantage that seemed merely potential. For those who eventually do become competent in the skills of writing, however, there may be ancillary advantages. Notaries and court stenographers in the Roman Empire, for example, found that they were able to expand their personal influence through their physical proximity to the centre of imperial administration. It was but a few short steps, both literally and figuratively, from writing up the results of official decisions to helping formulate those decisions themselves. Most practically, notaries were always nearby the emperor and his circle, and their opinions thus came increasingly to be trusted. "Secretary" still remains the title of senior government officials in several Western nations, from its origins in medieval times with those who kept and wrote down the king's secrets. Power over writing could easily expand into a certain degree of power over policy.[13]

There is policy and there is policy, of course, and writing can also reinforce the pernicious exercises of power, especially those which the strong direct against the weak. Monopolized access to writing and records can determine what happened in any encounter, as anyone who has taken the minutes of a meeting can attest. In a real way, whoever prepares the minutes determines the outcome, for good or ill. An account of Cortes's siege of Tabasco would look very different if it were written by the natives. Writing can be an effective medium for underwriting injustice, and those out of power may thus fear records with good reason. Too often they are in the position of the father of Tom Joad in John Steinbeck's novel, *The Grapes of Wrath*. Just out of prison and seeking a new life for his family, Tom tells a friend how he passed his time in jail. "I learned to write nice as hell," he says, complete with all sorts of calligraphic flourishes, but this was a skill that his father would never appreciate. "Pa's gonna be mad when he sees me do that. He don't like no fancy stuff like that. He don't even like [plain] word writin'. Kinda scares 'im, I guess. Ever' time Pa seen writin', somebody took somepin away from 'im." The stock melodramatic figure of the villain who cheats a widow out of

[13] H.C. Teitler, *Notarii and Exceptores: An Inquiry into the Role and Significance of Shorthand Writers in the Imperial and Ecclesiastical Bureaucracy of the Roman Empire* (Amsterdam: J.C. Gieben, 1985), pp. 34–36. On the problems of extending literacy in cultures without elaborate systems of schools, see William V. Harris, *Ancient Literacy* (Cambridge, MA: Harvard University Press, 1989), esp. pp. 96–102 and pp. 233–248.

her inheritance by recourse to a loophole in an obscure document is a familiar enough reminder of the role of records in the accomplishment of injustice.[14]

The century just past offered more examples than most of us would like of more sinister connections between record making and power, particularly the power of totalitarian states. Consider, for example, the brutality of Cambodia in the middle 1970s. As they went about their systematic genocide, the Khmer Rouge kept detailed records of their activity with a scrupulosity that is chilling in retrospect, especially now that these documents are coming under scrutiny by the outside world. Tuol Seng, the largest and most efficient of the killing camps, was awash in records as much as in blood. Hundreds of thousands of prisoner files were maintained, crammed with arrest forms, mug shots, forced confessions, "genealogies" of supposed networks of spies and resisters, hand-written notes on the details of torture, execution schedules, and other materials. These records had their grim practical uses, keeping track of the movement of prisoners into and out of the camp, like some demonic ledger. The camp's administrators used these records in compiling reports to their superiors and, one supposes, in making requests for additional resources, the common desire of administrators in all ages and times. But these records had a larger meaning as well, reassuring those who were self-consciously bent on "purifying" their country and redirecting its history that they were indeed advancing those goals. Documenting the atrocities was as much a part of the programme as the actual events documented. No one ever had to examine individual records or files for this larger goal to be achieved; the totality of them, their mass, their very existence offered graphic evidence that the regime's intentions were not only being carried out, but that they were right in doing so.[15]

Horrific as it was, the use of records as tools of oppression by the Khmer Rouge was mercifully brief in comparison with the sustained programmes of communist-bloc nations in the half-century after the Second World War. The true masters of this were the East Germans, whose secret police, the Stasi, outstripped even their masters and teachers in the KGB at the reinforcement

[14] John Steinbeck, *The Grapes of Wrath* (New York: Penguin Books, 1992: orig. pub. 1932), pp. 73–74. For a graphic image of how records may help take advantage of the weak, see the nineteenth-century engraving, entitled "A Flaw in the Title", reproduced in James M. O'Toole, *Understanding Archives and Manuscripts* (Chicago: Society of American Archivists, 1990), p. 14.

[15] For a description of these records and the ways in which Western scholars are discovering and interpreting them, see Dawne Adam, "The Tuol Seng Archives and the Cambodian Genocide", *Archivaria* 45 (Spring 1998): 5–26, and David Chandler, *Views from S-21: Terror and History in Pol Pot's Secret Prison* (Berkeley: University of California Press, 1999). For another example of careful record keeping as a tool of repressive regimes, see Bruce P. Montgomery, "The Iraqi Secret Police Files: A Documentary Record of the Anfal Genocide", *Archivaria* 52 (Fall 2001): 69–99.

of power through record keeping. We have Timothy Garton Ash and his book, *The File*, to thank for our understanding of how this system worked on many levels. By the time the regime in the German Democratic Republic began to collapse in 1988, the Stasi had about 90,000 employees – by contrast, the Gestapo had had only about 15,000 at its height – and roughly 170,000 willing informers in the public at large. With a relentless effort, this system recorded the minutest of details. Consider the information in the author's own file, which he got to examine long after the fact, detailing his activities one evening in October of 1979: "16.15 hours in the upper station concourse '246816' [that's Garton Ash] greeted a female person with a handshake and kiss on the cheek. The female person received the code name 'Beret.' 'Beret' carried a dark brown shoulder bag. Both left the station and went, conversing, to the Berliner Ensemble on Brechtplatz." From there, they went to one restaurant, found it crowded, went to another and drank coffee, then back to the first for a late dinner – and on and on.[16] With mind-numbing regularity, year in and year out, records of this kind were made, amassed, preserved, and lovingly catalogued on the activities of perhaps a million persons. One might be tempted now simply to dismiss them as examples of what Hannah Arendt called the banality of evil, were it not for the enduring damage these records continue to do today, as when, for example, husbands are discovered to have been informants on their wives.

For our present purposes, it is the power – ultimately, a psychological power – entailed in the making of these records which attracts attention. To be sure, these files could be used for the practical purpose of maintaining the police state, locking up those who might offer any resistance, and we know that they were in fact used for that purpose. But the keeping of the files in and of itself was sufficient to enforce the message that those in power were always alert, always attentive to deviation, always watching. Like Stalin in Solzhenitsyn's *First Circle*, who sleeps all day so that he can telephone underlings in the middle of the night to ask detailed questions on minor matters – "My God," they think, "he's always awake, always at work!" – the keeping of records by the Stasi reinforced the notions that nothing went unobserved, nothing was private, nothing was unknown to those who had the power. If those fears could be ingrained in the populace so that they changed their behaviour as a result, it might never be necessary actually to use the records. People would, in effect, censor themselves in advance and thus pose less of a challenge to the regime. As potent as the records might be, record making alone could produce the desired effect. And perhaps the people of East Germany knew this, because, when the Wall came down, the fate that befell the files is instructive. In contrast to other mobs in other historical

[16] Timothy Garton Ash, *The File* (New York: Random House, 1997), pp. 7–10.

places and times (the French Revolution, most notably), the destruction of records in the early 1990s was uncommon. When crowds broke into Stasi repositories, something else happened. Sometimes, people simply scattered records on the floor and trampled them underfoot, symbolizing the reversal of power by grinding down the implements of those who used to do the grinding. In response, democratic leaders often moved to save the files, ensuring that the fleeing bureaucrats did *not* destroy the records, so that they could be used in the interests of justice in the new order that was emerging. The change was not unambiguous, of course, and the files continue to exert their power, though it is those who expose the secrets who hold the power now, not those who kept them.[17]

The reversal evident in the East German case suggests that the power of records does not always flow in one direction. The victims of systematic oppression may use records to resist the powerful, even in unlikely circumstances. When pressed, they can seize a power that would be otherwise unavailable to them by mastering and controlling the processes of writing. No one knew this better than Aleksander Solzhenitsyn, who drew on a wide circle of "invisible allies" to preserve, copy, and distribute his writings, deemed so dangerous to the Soviet state that he was expelled from his homeland in 1974. He plainly hoped that these writings would eventually be published and available in countless printed copies, but he could not be sure that this would happen: perhaps they would have to circulate forever only in manuscript. He and his co-conspirators elaborated countless ways to secure his writing and that of others: camouflaging messages as acrostics in apparently innocuous poetry, writing correspondence in a microscopic hand and stuffing the tiny bits of paper into a dog collar, concealing larger manuscripts inside phonograph machines, which were already heavy enough to avoid arousing suspicion. What most commands our respect, however, is not the ingenuity with which this network of friends managed to preserve the subversive writing, but the self-determination and agency these methods gave resisters in a society which otherwise deprived them of autonomy and power. As a result, Solzhenitsyn concluded, these writings could become "a massive stone foundation [which] underpinned all my activity by giving me the assurance

[17] Garton Ash makes this point ibid., pp. 221–222. For examples of both the abuse and preservation of these records, see *New York Times*, 6 and 8 December 1989, and 16 January 1990. See also Ernst Posner, "Some Aspects of Archival Development Since the French Revolution", *American Archivist* 3 (July 1940): 159–172, and Judith M. Panitch, "Liberty, Equality, Posterity? Some Archival Lessons from the Case of the French Revolution", *American Archivist* 59 (Winter 1996): 30–47. For another example of the destruction of records (and, in this case, the record-keeper himself), see Richard Brown, "Death of a Renaissance Record-Keeper: The Murder of Tomasso da Tortona in Ferrara, 1385", *Archivaria* 44 (Fall 1997): 1–43.

that my works would survive, whatever might happen to me." Even more to the point, in the highly charged political circumstances in which he found himself, these writings meant that he was no longer merely a writer. Nor was he any longer a victim. He had become instead "the firing pin attached to a spring that had been compressed for half a century and was now uncoiling."[18] If records were often instruments of the powerful, they could likewise be instruments by which the apparently weak resisted and tried to seize power themselves.

* * *

In every sense, it is a long way from Cortes's notary at the beginning of the sixteenth century to issues of power and record making at the beginning of the twenty-first century. Common to both eras, however, is the complexity of the processes of record making, record keeping, and record using. It is a bias of literate people such as ourselves to suppose that records, books, manuscripts, and other materials mean only what the words in them say. Closer examination reminds us that there is usually more to the story than that, that layers of meaning – practical, symbolic, cultural – are embedded in record making and the records made. It remains only to speculate whether and how this might be changing now that the means for recording, preserving, and using information are so obviously changing.

Beginning in the middle 1980s, during the first flush of enthusiasm which followed the widespread acquisition of personal computers by individuals and the first appearance of the internet as a medium for communication, predictions of revolutionary change were common. The availability of this new technology, the argument went, meant that fundamental shifts in culture and maybe in the way the human mind worked were afoot, and nothing would ever quite be the same. Traditional means for storing and transmitting information, like the book, were obsolete and were rapidly being replaced. One commentator composed a series of "elegies" for Gutenberg and the world he had helped create; another found sinister connections between the "collapse" of literacy and the rise of violence in modern society; others celebrated the new "fluid word" of never-ending hypertext pathways, which meant that old-style "linear" reading was as dead as the dodo, or soon would be. Mental processes were undergoing fundamental change in response to the new technology, many argued, a change as elemental and all-encompassing as the shift from orality to literacy itself. The making and use of records, the writing and

[18] Aleksandr Solzhenitsyn, *Invisible Allies*, Alexis Klimoff and Michael Nicholson (trans.) (Washington, D.C.: Counterpoint, 1995), pp. 30, 55.

reading of books, and the older cultural values associated with these activities would all disappear, sooner rather than later.[19]

Like most predictions of rapid and radical change, these now seem overblown, and in retrospect, the exaggerations should not surprise us. For all the initial fanfare, there is at least a long lag between the beginning of technological change and the final realization of its impact. More importantly, very few new technologies render the older ones entirely obsolete. Television did not lead to the demise of radio, any more than the emergence of the internet has led to the disappearance of the book or the telephone. Rather than a simple, straightforward process of extinction through a kind of "technological selection," what we see instead is a cumulative effect. The older and the newer means for recording and transmitting information co-exist, but in a constantly changing relationship to one another. The means we choose to accomplish our various personal and societal purposes evolve: some of them stay the same, but others change, and we are constantly experimenting to find the most appropriate method for any transaction. E-mail is useful for conveying messages quickly, for example, and we have discovered that there are any number of occasions when this technology is preferable to its near analog, the telephone. I send you an e-mail to give you my comments on the report you have prepared. Not so long ago, we would have discussed this over the phone or I would have sent you a typed memo of reactions. Now we see that it is not actually necessary for us both to be on the phone line at the same moment or for me to go to the trouble of preparing and sending the memo. Instead, I send the message when it is convenient for me to do so, and you read it when that is convenient for you. There may still be a need for the telephone: we may clarify or argue particular points and come to a mutual understanding. The phone is not rendered irrelevant; it is merely used for different purposes. The potentials and uses of the new form for the transfer of information do not obviate the old form, but the two arrive at a new balance with one another. So it will continue to be with future technological change.

Societal rules and transactions similarly evolve as new technologies add more layers to the record making process. Contracts of all kinds, for instance, the basis for much of the interaction of individuals in common life (as any first-year law student can attest), and a traditional source of record making,

---

[19] See, for example, Sven Birkerts, *The Gutenberg Elegies: The Fate of Reading in an Electronic Age* (Boston: Faber and Faber, 1994); Barry Sanders, *A is for Ox: The Collapse of Literacy and the Rise of Violence in an Electronic Age* (New York: Vintage, 1994); Michael Heim, *Electronic Language: A Philosophical Study of Word Processing* (New Haven: Yale University Press, 1987); J. David Bolter, *Writing Space: The Computer, Hypertext, and the History of Writing* (Hillside, NJ: Erlbaum Associates, 1991); Nicholas Negroponte, *Being Digital* (New York: Knopf, 1995); and Phil Mullins, "The Fluid Word: Word Processing and Its Mental Habits", *Thought* 63 (December 1988): 413–428.

adapt their form as society finds new ways to accomplish old purposes. In the past, hand-written agreements signed by the parties directly involved were replaced by type-written or printed forms; original signatures were sometimes replaced by those of proxies or by signature stamps, both of which depended on the development of reliable processes for authentication. Most recently, as impersonal, at-a-distance electronic commerce has expanded, a system for the use and verification of "electronic signatures" has begun to emerge and receive the sanction of law.[20] As before, these new possibilities of record making do not drive the old ones into extinction. Rather, the new forms are added on to the old ones, and they all must find a way to accommodate one another. As often as not, the result is an unexpected fusion of procedures. When we make a purchase with a credit card, for example, it is the electronic data on our card, exchanged with the seller and our bank, which actually effects the purchase and the payment; that record is the one that counts. But still we sign the receipt – often with a hand that is not recognizably ours: this is seldom our best penmanship – as if it were the paper record rather than the electronic one that mattered. We take our copy of that record home with us, as if we intended to keep it and refer to it later, though in most cases it is discarded or lost more or less immediately. The cultural "drag" of the older record-making rules and conventions is always powerful.

Facing such changes will demand, however, that we also face new or newly urgent problems, many of them having little to do with record making as such. The relationship between the different forms of record making and information exchange will be affected by many extrinsic forces, not least by differences of economic and social class. The question of who has access to the advantages of the new technologies is a serious matter, since our experience so far has certainly been that the ability to realize their benefits has been restricted largely to those on top. There has been and there continues to be a sort of Social Darwinism at work here, especially since the technology of records and information is so forcefully driven by the market. Some people can afford to buy software upgrades every year (or oftener). Some can afford entirely new computer systems every few years, and they have the resources to plan on doing so, much as they expect to buy a new car regularly, if not necessarily frequently. Others, those at the bottom of the economic scale, cannot do so, and they are at a disadvantage no less than those who lack adequate transportation to take advantage of wider job opportunities. Left to itself, the marketplace will do little to correct these inequities: the information-rich will get richer, and the information-poor will get poorer

[20] On the legal validity of electronic signatures in the United States, see the news reports surrounding the passage of federal legislation on the subject: *New York Times*, 15 and 17 June and 1 July 2000.

– and the power of those who control the record-making and record-using processes will thus only increase. In this context, Newt Gingrich's old idea to give a PC to every kid in America seems not quite as far-fetched as it might have at the time. At least he had accurately identified the problem. The much touted "democratization" of the internet, though a reality for those who have the resources to participate, is ambiguous, just as a democracy in which the franchise is restricted to only certain people may not be worthy of the designation.

Even in such a world, however, we should expect the traditional cultural reasons for record making to endure and to evolve only slowly in response to the new, electronic capabilities. Reflecting on the many meanings of records and record making across times and places should remind us that cultural habits die hard and new habits take a long time to form. Older forms endure even in unlikely circumstances, just as Cortes carried out the ceremonies of document making in the midst of warfare in an alien land. As essential as it has apparently become in contemporary life, e-mail is still generally thought inadequate or inappropriate for certain kinds of communications – for love letters or sympathy notes, for example. On many different occasions, we still seek out the tangible (if not always fully real) in the era of the virtual. We still want the reproductions of seals on our diplomas. We still want obviously inauthentic reproductions of signatures on our currency, land patents, and similar documents. We still want the psychic and personal satisfactions of making records even if we intend to put them to no practical use. For better or worse, powerful forces still use record making to confirm and extend their power, perhaps especially when they plan to use it for personal or oligarchic rather than collective ends. These cultural reasons for recording and preserving information have endured at least since Cortes and his notary marched across Mexico, and we should view any prediction of their imminent disappearance with scepticism. The relationships among different forms of record making will change, and we must be attentive to those changes. The first step in that on-going process is surely an attempt to understand the nature of the stuff we are all dealing with and the processes which have brought it into being.