

# *Diplomatics: New Uses for an Old Science (Part IV)*

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The heavens themselves, the planets and this centre  
Observe degree, priority, and place,  
Insisture, course, proportion, season, form,  
Office and custom, in all line of order.

Shakespeare, *Troilus and Cressida*.  
Act i, sc. 3, l. 85

Systems owe their integrity to their logical cohesion, that is, to the consistency of their elements with their purpose and with each other; to the existence of distinct boundaries between those elements; and to the definition of an internal order. A system is made of building blocks and of a purpose, which rules it from the outside, determining the boundaries in which the system is designed to operate. The ultimate aim of a system is to provide security amid change, and a force for its own continuity.

Diplomatics saw the documentary world as a system, and built a system to understand and explain it. Early diplomatists rationalized, formalized and universalized document-creation by identifying within it the relevant elements, extending their relevance in time and space, eliminating the particularities, and relating the elements to each other and to their ultimate purpose. The identified elements were the juridical system, which constitutes the necessary context of document-creation; the act, which is its determinant cause; the persons, who are its agents and factors; the procedures, which guide its course; and the documentary form, which allows document-creation to achieve its purpose by embracing all the relevant elements and showing their relationships. These elements are building blocks which have an inherent order: in fact, they can be analysed in a sequence from the general to the specific, following a natural method of inquiry. However, such a method can be adopted only when the reality is fully observable or attainable. If this is not the case, a knowledge of the abstract characteristics of the system and its component parts, and of their relationships, makes it possible to understand the essential aspects. By referring to this knowledge, each single element of the system can be used as a key to all the others, and can lead to the comprehension of the greater whole. This is the analytical method of inquiry, which is applied by the so-called "exact sciences" and which, in a process of discovery, tends to precede the method of moving from the general to the specific, and allows the formulation of generalizations.

The diplomatic process of abstraction and systematization decontextualized the elements of document-creation, and made explicit what was implicit, so that contradictions could be recognized and relationships understood. This loss of context through generalization did not undermine the validity of the results. In fact, if it is true that familiarity with context is characteristic of human life, it must also be accepted that something which has become familiar can be recognized and understood in a different context, and can serve as a reference point from which the relevance of changes in the context can be measured.

The second and third articles of this series presented the juridical system, the acts and the persons, following the logical progression which underlies the quest of the archivist.<sup>1</sup> This article will proceed one step further in that sequence by presenting the procedures which, within a juridical system, are followed by the persons in order to accomplish acts resulting in documents. That is, this article will discuss the *genesis of documents*.

The genesis of documents is an elaboration of routines. Routines have an built-in resilience, which enables them to absorb changes occurring between one set of routine actions and its repetition. Once the steps involved in the performance of an action are established or ascertained, decisions or enquiries are no longer needed. Confronted with a problem, all one has to do is to link it to the familiar, and by analogy what is relevant can be easily found. The genesis of documents was seen as a sequence of two sets of routines, which were called by early diplomatists *actio* and *conscriptio*, and by this writer *moment of action* and *moment of documentation*.<sup>2</sup> “But general diplomatics does not stop at this first result — writes Alain de Bouïard — it composes, with the whole of the concrete categories, an ideal act. By doing so, diplomatics allows the analytical examination to put into evidence and to study in their logical sequence all the facts which can determine the creation [of a document] or concur in its formation.”<sup>3</sup> General diplomatics considers the moment of action and the moment of documentation to be in their essence two procedures, which may develop either in parallel or in sequence, and identifies the steps involved in each of them.

### ***The Moment of Action and the Moment of Documentation: Two Procedures***

A *procedure* is the formal sequence of steps, stages or phases whereby a transaction is carried out. Whether it is regularized in written rules or some other means, every procedure tends to have a structure. On the basis of this fundamental assumption, diplomatists of medieval documents identified the typical components of the two procedures guiding action and documentation which were evident in the formal elements of the archival material available to them: documents issued by public authorities, and notarial deeds.<sup>4</sup>

The examination of documents issued by public authorities reveals the existence of two distinct types of actions, or acts: those which were undertaken by the authority on its own direct initiative, of its own will, in the context of its political-sovereign capacity; and those which were initiated by other juridical or physical persons, public or private. In the former case, the moment of the action comprises one *simple act* consisting of the order given by the authority to its chancery to compile the document expressing its will.<sup>5</sup> This act is called *iussio* (command), and does not have an evident procedural nature.<sup>6</sup> In the latter case, we have a *compound act on procedure*, consisting of well-defined stages or phases.<sup>7</sup> The first phase is called *petitio* (petition). The petition is the request of a physical

or juridical person to the authority to accomplish an act. Petitions were customarily presented in writing, in a predetermined form, to the chancery of the authority. Sometimes, the petitioners were given a hearing to express their requests, but, from the thirteenth century, petitions tended to be made only in writing. The second phase is called *intercessio* (intercession), and consists of the propitiatory intervention of persons close to the authority. The intercession was rarely presented in person by its author; it used to take the form of a letter of recommendation or reference providing information on the petitioner and expressing support for the petition. The third phase is the *interventio* (intervention). The content of this phase changed through the centuries as the juridical system evolved. In the early Middle Ages, the *intervenientes* (those who intervened in the transaction) were persons who could be damaged by the transaction, and, by their presence, guaranteed the validity of the act. Later, with the weakening of the sovereign power, the intervening persons were the magnates who gave their consent to the transaction. Between the tenth and twelfth centuries, the intervening persons became simple witnesses to the action, because the authority did not ask for their opinion or consent any more. Sometimes, they did not even witness the act, but were mentioned in the document to give it solemnity. The fourth phase was the *iussio*, the order given by the authority to the chancery to compile the document embodying the transaction. This phase exists also in those actions which were routinely accomplished by the chancery without the knowledge of the authority. In this case the *iussio* is implicit in the regulation for the functioning of the office.

The diplomatic examination of medieval notarial deeds reveals the absence of an evident procedure prior to the compilation of the document representing the transaction. The *rogatio*, that is, the request to compile the document, presented orally by the parties to the notary, does in fact correspond to the *iussio* expressed by public authorities, even if it has the diplomatic configuration of a *contract*.<sup>8</sup>

The analysis of medieval documents shows that the set of routines, or procedures governing the moment of the action comprised a minimum of one to a maximum of four phases, depending on who takes the initiative for the transaction, whether its author(s) or somebody else. This analysis is not completely convincing. If one extracts the relevant facts from their historical and documentary context, and avoids considering every action as necessarily endowed with a definite form,<sup>9</sup> one can clearly see that every transaction begins with an *initiative* and manifests itself by means of a *deliberation*. In deed, a transaction differs from any other fact because it is prompted by an act of will aimed to produce consequences, that is, to create, maintain, modify or extinguish situations. This also implies that a transaction derives not only from an initiative, but also from an assessment of the situation that it intends to influence. Such an assessment necessarily follows the collection of relevant information and the analysis of the data assembled. Thus, it is possible to identify two other phases between the initiative and the deliberation, phases which might be called *inquiry* and *consultation*.

To sum up, if we consider the procedures governing the moment of the action to be a logical system rather than a set of formal manifestations, we can say that every such procedure, quite independently of its author(s) and its initiator(s), comprises four phases: *initiative*, *inquiry*, *consultation* and *deliberation*. The correspondence between these phases and the *petitio*, *intercessio*, *interventio* and *iussio* is obvious, but while these latter phases are unequivocally linked to a specific historical and documentary context, those proposed by this author are “decontextualized” and are therefore recognizable in every context, even when they do not materialize in visible actions or in documents.

The procedure governing the moment of documentation as seen by diplomatists of medieval documents was formalized in office routine. In the chanceries of public authorities, this procedure began with the *compilation of the draft* of the document, which was followed by the *preparation of the fair copy*. Those chanceries which made use of registries *transcribed the document*, entirely or partially, either before its validation, that is, as the third phase of the procedure, or after validation, as the fifth phase. The most solemn phase was the *roboratio*, or validation of the document, which was made according to different systems, the most common being (a) the intervention of the author, who either subscribed or put a particular sign; (b) the intervention of the highest official of the chancery, whose subscription attested that the document corresponded to the will of the authority; (c) the intervention of witnesses, which gave solemnity to the document; (d) the drawing of special signs (monograms, *rota*, etc.); and (e) the affixing or appending of the seals. The following phase, not always present, consisted of the *computation of the tax* to be paid by the addressee, and the writing of its amount on the margin of the document. The final phase was the *delivery* of the document, or its *publication*, if the general public had to be notified of its content.

The creation of notarial deeds followed a very similar procedure. The first phase was the *compilation of the draft*. It used to take place in two stages: at the moment of the request by the parties, the notary wrote the essential data on the *verso* of the parchment destined to contain the document (i.e., names, action, description of the property, etc.); later, the notary compiled a fuller draft omitting only the formulas which were identical in all analogous deeds. The second phase was the *preparation of the fair copy* in its definitive form, that is, with inclusion of formulas. When the authority of notaries was fully established (after the tenth century), this phase disappeared, because the preservation by the notary of the draft of the deed was considered sufficient evidence of the existence of the transaction. The third phase was the *subscription*. Usually the parties did not subscribe, while we often find the subscription of witnesses or their signs. When the notary became a public official, notarial deeds started to present only the subscription of the notary. Its function corresponded to the validation in public documents. The final phase was the *traditio*, that is, the delivery of the document to the concerned party.<sup>10</sup>

From the analysis of medieval documents, it is possible to conclude that the set of routines, or procedures, governing the moment of documentation comprises four necessary and two possible phases, as follows:

- |                                 |             |
|---------------------------------|-------------|
| 1) compilation of the draft     | (necessary) |
| 2) preparation of the fair copy | (necessary) |
| 3) registration                 | (possible)  |
| 4) validation                   | (necessary) |
| 5) computation of tax           | (possible)  |
| 6) delivery                     | (necessary) |

Like the result of the analysis of the procedure governing the moment of action, the above schema is not convincing, and not only because it is not transportable to a different historical and documentary context. It is unsatisfactory also within the context under consideration. In fact, it is valid only for documents of an external and operational character, and for contracts. To make this schematization valid for all the documents created by an office, it is probably more appropriate to consider all of the six

phases as possible, and each of them as a possible *compound act*: in fact, the validation of a document, for example, may be an *act on procedure*, and the preparation of a draft a *continuative act*.<sup>11</sup>

***The Moment of Action and the Moment of Documentation: One Integrated Procedure***

While the medieval document concentrates the information on the event of which it is the instrument and the product, and represents a kind of knot of information, the contemporary administrative document is only one of the elements of atomized information. The piece of a dossier has interest only if it is at its place within the dossier, which is itself the basic unit, the basic instrument of administrative activity.<sup>12</sup>

Gérard and Christiane Naud have pointed to the most obvious fact which differentiates the genesis of medieval documents from that of modern documents. Each medieval document contained the whole transaction generating it, and its creation, as the apex of the transaction, was either sequential to it (probative documents), or parallel (dispositive documents),<sup>13</sup> that is, perfectly distinguishable from the transaction as an expression of will. On the contrary, each modern document incorporates only one phase of the transaction, or even less, and its creation, as a means of carrying out the transaction, is integrated in each of the phases through which the transaction develops, and is not distinguishable from the action of the will. This fact invalidates the definition of the moment of the action and the moment of documentation as two separate sets of routines, or two distinct procedures. They are still two *conceptually distinct moments*, nevertheless, even if they are considered integral parts of one procedure. This can be demonstrated by analysing the ideal structure of the integrated procedure which generates documents. Such a structure, independently of historical-administrative context, author and purposes, comprises two or more of the following phases:

- 1) Introductory phase or *initiative*. It is constituted by those acts, written and/or oral, which start the mechanism of the procedure. Examples of documents created in this phase are petitions, applications, claims, drafts of bills.<sup>14</sup>
- 2) Preliminary phase or *inquiry*. It is constituted by the collection of the elements necessary to evaluate the situation. Examples of documents created in this phase are surveys, estimates, curricula, technical reports, reference letters.
- 3) Consultative phase or *consultation*. It is constituted by the collection of opinions and advice after all the relevant data have been assembled. Examples of documents created in this phase are agendas, minutes, memoranda, discussion papers.
- 4) Deliberative phase or *deliberation*. It is constituted by the final decision-making. Examples of documents created in this phase are drafts of appointment notices, contracts, laws.
- 5) Controlling phase or *deliberation control*. It is constituted by the control exercised by a physical or juridical person different from the author of the document embodying the transaction, on the substance of the deliberation and/or on its forms. Sometimes, some form of control is necessary to insure the effectiveness of the deliberation and its enforceability. Examples of documents created in this phase are letters of transmission, memoranda, and definitive compilations of the documents embodying the transactions.

- 6) **Executive phase or *execution*.** It is constituted by all the actions which give formal character to the transaction (i.e., validation, communication, notification, publication). The documents created in this phase are the originals of those embodying the transactions and, for example, registrations, letters of transmission to a printing shop, or to a newspaper.<sup>15</sup>

Some procedures are very formalized: each phase is distinct from the others and easily recognizable. Other procedures are very informal, and some phases take place at the same time or do not leave a documentary residue. Nonetheless, every transaction passes through the above procedural phases, which constitute a closed logical system.

The schematization presented shows an integrated procedure, each phase of which comprises both the moment of action and the moment of documentation. However, while in the first three phases all the documents created are interlocutory with respect to the transaction as a whole, that is, they are necessary either to initiate or to develop the transaction, but are not the ultimate purpose of the procedure and result of the transaction, in the subsequent three phases, the focus of each action is the preparation, completion and perfecting of the documents embodying the transaction. This implies that within each of the first three phases the moment of documentation, as well as the moment of action, reaches its completion, while within each of the latter phases only the moment of action does — because, with respect to the document(s) embodying the transaction, the moment of documentation starts on the fourth phase with the compilation of one or more drafts; proceeds in the fifth with the preparation of the fair copy following the control exercised on the substance, articulation and mode of formation of the draft; and ends in the sixth with the creation of the original document(s) by means of validation and/or publication, eventual registration and delivery and/or inclusion in the file.

An example may clarify this point. Let us examine a very typical procedure, the appointment of a university professor. The original document which will embody the transaction is the letter of appointment sent by the president of the university to the appointee. Thus, the procedure which will be described refers to the genesis of that specific document, even if its documentary residue will accumulate in files, the closing document of which will ideally be a copy of the letter of appointment, even when followed by a copy of the appointment notice sent for publication. The complete file, containing all the documents produced during the procedure, in the form in which they participated in it (that is, in draft form if they participated in the procedure in that form; in original if they did so, etc.), will be only in the office of the head of the department concerned. Duplicates of the file, either partial or complete, will probably be among the records of the members of the search committee, in the dean's office, in the president's office, among the Board of Governors records, and in the appointee's fonds. Traces of the transaction may also be found in the immigration office. This procedure is very formal and strictly follows the six ideal phases:

- |                        |   |
|------------------------|---|
| 1) <i>initiative</i>   | Issuing of an advertisement for the position.   |
| 2) <i>inquiry</i>      | Collection of applications, curricula vitae, reference letters, copies of publications; interviews.             |
| 3) <i>consultation</i> | Discussion of the data assembled by the members of the search committee. Recommendation to the department head. |

- 4) *deliberation* Offer of the position to the applicant and receipt of his/her acceptance. Compilation of a form by the department head, with inclusion of the relevant data of the transaction (this is very similar to the preparation of the first draft by the medieval notary).
- 5) *deliberation control* Control of the data included in the form as to their substance, by the dean; as to their completeness and appropriateness, by the president and the Board of Governors. Eventual correction. Approval of the definitive document.
- 6) *execution* Issuing of the letter of appointment by the president to the appointee. An appointment notice is issued by the head of the department and sent for publication.

From this example it is clear that the documentation moment of the last three phases can be considered as a *continuum*, the purpose of which is the creation of one perfect, enforceable document embodying the whole transaction. On the contrary, each of the first three phases comprises one or more integrated and complete procedures aiming to facilitate a transaction through creation of the documents typical of that phase. Such documents, while interlocutory with respect to the main procedure, are final with respect to the subordinate procedures. This can be demonstrated by analysing the *initiative* phase of the procedure leading to the creation of the letter of appointment: "Issuing of an advertisement for the position." The document the genesis of which we are going to examine is the advertisement. Relative to it, the following procedure is a complete transaction:

- 1) *initiative* Identification of the need for a new position and presentation of a request for it, usually by the head of the department to the competent dean, orally and in writing (memorandum).
- 2) *inquiry* Collection of data on the financial situation; and on the availability of qualified persons.
- 3) *consultation* Discussion of the assembled data in order to decide on the content of the advertisement; consultation on the composition of the search committee.
- 4) *deliberation* Composition of the advertisement in draft form by the search committee.
- 5) *deliberation control* Control by the head of the department and the dean of the substance of the document (description of responsibilities, qualifications, salary); control by the office of the president of the formulation of the qualifications, so that equity of employment is respected; control by the immigration office of the presence of the prescribed formula giving precedence to citizens and landed immigrants. Compilation of the fair copy.
- 6) *execution* Printing and distribution of the advertisement for publication. Communication of the document to all parties who might be interested.

This type of analysis could be conducted on any of the phases of the procedure leading to the creation of the letter of appointment, and on any of the procedural phases leading to the creation of the advertisement. In fact, the dissection of the first procedure considered may continue until the genesis of all single documents participating in the main procedure has been examined. However, at one step down in our operation we would already encounter some difficulties, clearly identified by Gérard and Christiane Naud: “The administrative action proceeds by cascades and ramifications, from the general to the specific and vice-versa. The handling of a transaction follows at one time several channels which separate and later rejoin, each service, office or official being entrusted with a part of the total procedure . . . the problem is what point of view to adopt, and we think that the archivist must adopt the point of view of the administration which created the archival material.”<sup>16</sup> This means that, not only would it be impossible for an archivist to follow all of the ramifications of each single transaction, but, more importantly, it would be useless. That kind of operation does not even belong in the work of the special diplomatist, who has the specific purpose of identifying the “typical” transactions of a given administration and describing their ideal structure and interrelationships, so that the entire functioning of the administration can be made evident. Rather, the archivist needs to distinguish “the stages of an action or the phases of a procedure, because the form of the documents one encounters results from the status of development of the procedure,”<sup>17</sup> from the point of view of the documentary body with which he/she is dealing. Of course, one can object that it is not always necessary to identify forms of documents, particularly considering that we modern archivists do not deal with single documents. Gérard and Christiane Naud directly address this point in a very effective fashion:

“And if one takes into consideration the fact that a *dossier* rarely coincides with a *file*, being generally smaller or larger, one can see that the unit to be described will necessarily be the dossier or a part of it. If it is necessary to describe a part of a dossier, one needs to point out the element of the procedure from which it results. It is for this reason that we introduce in the description of the content of the files an element that identifies the *action* which results in the existence of the dossier(s) or of the sub-dossiers that it contains. It is for this same reason that we have to find a solution that allows us to place the action from which the described unit results in the context of a more general action, that is, of the mission or characteristic in virtue of which the transferring administration acted.”<sup>18</sup>

Thus, an understanding of the procedure governing the genesis of documents is essential to carrying out the descriptive function, but such an understanding can only begin once the form of the document(s) embodying the transaction which make up the dossier has been identified. For example, a university archivist acquires the fonds of a faculty member and encounters a file (Naud’s *article*) containing the letter of appointment received by the professor. In order to arrange and describe that file, he/she has to establish first whether the file corresponds to one transaction (Naud’s *dossier*), to more than one transaction, or to a part of a transaction. In fact, the file might contain only the material related to the appointment of the faculty member; all the material related to his/her employment relationship with the university; or part of it. This is easy to ascertain if the archivist is familiar with the procedures of appointment and tenure at the university, and with the way in which a faculty member participates in them. If the file coincides with the appointment transaction, it might contain



- 1) *initiative* Copy of the advertisement for the position; copy of the application and its enclosures.
- 2) *inquiry* Material related to the department in question, the faculty, the campus, the city. Correspondence aimed at collecting data useful for the interview.
- 3) *consultation* Correspondence with the head of the department, other faculties, family, etc., on conditions of appointment, of relocation, etc.
- 4) *deliberation* Original of the letter offering the position; draft and copy of the letter of acceptance of the position.
- 5) *deliberation control* This phase may produce two different sets of documents in the professor's file: a) if the control is that exercised by the professor over the conditions of appointment as expressed in the letter offering the position, it may or may not produce further correspondence, and would take place at the same time as the deliberation phase; b) if the control is that exercised by the department over the qualifications of the professor, the file of the professor may contain copies of the documents supporting those qualifications as provided to the department.
- 6) *execution* Original of the letter of appointment; copy of the appointment notice.

The example presented refers to a very simple situation, but the analysis develops along lines independent of the complexity of the documentary body under examination. The focus is always the transaction and its procedure, and the starting point is constituted by the documentary forms embodying them. A consideration of the subject — what any group of documents is about — accompanies the analysis; it does not guide it. If different files in the same fonds receive a common description, it is because they either result from consecutive phases of the same transaction; from similar transactions related to different subjects; or from consecutive transactions related to the same subject. Thus, within the same fonds, arrangement and description have to concentrate on the transactions. Besides, if relationships among dossiers included in different fonds can be established on the basis of their common subject, the difference among those dossiers results from the different ways in which their creators have intervened on that subject.<sup>19</sup> For example, a bridge is built or maintained, and the files which result from those two actions are very different. The file produced by the construction operation is voluminous; contains many transactions of different types (administrative, financial, technical); and spans a limited number of years (from the date of the first project to the end of the period allowed for claims related to the actual construction). On the contrary, maintenance is a continuing action, giving origin to files the opening and closure of which depend on the practice of the office. The documents included in this type of file tend to be repetitive as to content and standard as to form. From an archival point of view, the value of the latter files will be different from the value of the former files.<sup>20</sup> This example does more than just demonstrate that the difference between files lies primarily in the action. It shows that the identification of the action and of the procedure guiding it

is important not only for arrangement and description, but also for appraisal. It might be observed that, given the bulk of contemporary administrative documents, we neither appraise nor describe file by file. We tend to conduct those operations on larger units, namely series. However, in order to understand and evaluate the content of a series, we examine samples of its component files; then extrapolate the result of that observation to the whole series; and finally describe and evaluate the series with respect to both its components and the whole administrative action of which it is a residue. This need to generalize from the circumstances we observe introduces another aspect of the system built by general diplomatics for understanding document-creation: the categorization of procedures.

### *The Categorization of Procedures*

When the administrative procedures and the techniques of handling information in the offices evolve rapidly, we constantly encounter the problem of knowing whether this or that concrete category of documents is equivalent to this or that other ancient category. . . .<sup>21</sup>

It has been shown how each single procedure presents the same ideal structure, independently of its context, author and purpose. However, the activities involved in carrying out each phase of a procedure vary according to the purpose of the procedure, and so do the documents resulting from those activities. In order to identify and evaluate the activities and their documentary residue, diplomatics has distinguished all possible procedures in four categories, on the basis of their general purpose:

- 1) *organizational procedures*: those aimed at the establishment of organizational structure and internal procedures, and their maintenance, modification or extinction.
- 2) *instrumental procedures*: those connected to the expression of opinions or advice.
- 3) *executive procedures*: those which allow for the regular transaction of affairs within limits, and according to norms already established by a different authority.
- 4) *constitutive procedures*: those which create, extinguish or modify the exercise of power. Constitutive procedures comprise three subcategories:
  - i) *procedures of concession*: those which create new situations and new powers for the addressee(s).
  - ii) *procedures of limitation*: those which deprive physical or juridical persons of powers or faculties.
  - iii) *procedures of authorization*: those which consent to the exercise of powers already held by a physical or juridical person. They do not create powers, but remove limits to their exercise.<sup>22</sup>

These categories were identified by examining the documents issued by various medieval chanceries. On the basis of the apparent fact that documents had a different form depending on what they aimed to accomplish, it was assumed that the procedures generating the same documentary forms consisted of the same activities. As a logical consequence, to categorize documentary forms had to be equivalent to categorizing the procedures from which they derived, and therefore the activities generating them. So it was done. For example, it was found and established that the papal chancery issued privileges for conceding benefits (constitutive procedure of concession); *litterae gratiosae* for consenting to something (constitutive procedure of authorization); *litterae executoriae* for giving orders (constitutive procedure of limitation); *litterae concistoriales* for expressing collegial opinions (instrumental procedure); *litterae decretales* for formulating regulations (organizational procedure), etc. The results of this type of study were rationalized and generalized, and the operation brought about the categorization presented above.

Is this categorization applicable to modern procedures? How much has the world changed since medieval times? Can Montesquieu's trilogy of powers and its modern developments be compatible with the monolithic system viewed by diplomatists of medieval documents? This writer believes that the diplomatic categorization is valid with respect to modern procedures, although the world has undoubtedly become more complex, because human endeavours continue to present the same characteristics. In fact, individuals exist as human beings insofar as they belong to a group. Society gives itself a structure which regulates the coexistence of individuals, and establishes values and norms with which individuals wish to and must conform, and about which they share common ideas and opinions. It has been said that a collectivity founded on an organizational principle is a juridical system.<sup>23</sup> Within such a system, however much the governing principle changes over time and from place to place, human endeavours always present an *organizational*, an *instrumental* and an *executive* or a *constitutive* nature. With respect to this categorization, one difference between the medieval and the modern worlds is that the four types of procedure can be found today at many levels rather than at one level only. This means that, from top to bottom, each category of procedure includes all the others, but, at any given level, confronted with a body of documents, we can nevertheless say what type of procedure is involved.

If we examine the three powers identified by Montesquieu, that is, legislative, executive or administrative, and judicial powers, we can see that, in democratic societies, they are primarily entrusted to separate bodies. This means that while each body exercises part of each power, its main competence is within the sphere of only one of them. Thus, for example, a parliament has primarily legislative competence; a government or a department has primarily administrative competence; a court has primarily judicial competence. As a consequence, we can say that legislative procedures are the constitutive procedures of a parliament; administrative procedures are the constitutive procedures of a department; and judicial procedures are the constitutive procedures of a court. However, each of these bodies functions by also carrying out the other three types of procedure.

It is the function of special diplomatics to focus on one specific records creator, study its procedures, categorize them according to the model proposed by general diplomatics, and proceed to further analysis. The latter, while aiming to group together similar procedures and to distinguish among different groups of procedures belonging to the

same category, must proceed from the bottom up, that is, from the documents resulting from the procedures to the procedures themselves. For example, an exercise in special diplomacy intended to identify and reconstruct the procedures of Parliament, after having established that its constitutive procedures are those generating primary legislation, will be able to identify groups of procedures within the general constitutive procedure only on the basis of a categorization of laws. Laws can be categorized as “new laws,” “major revisions,” “major amendments,” and “minor amendments,” and further subdivided as “non-financial” and “financial,” the former including “private bills” and “public bills,” the latter comprising the three groups of laws related to “expenditures,” “revenue” and “borrowing authority.” Finally, special consideration should be given to “constitutional amendments.” Clearly, the groups of procedures generating the categories of documents listed above have in common the fact of presenting a constitutive nature or purpose, and the fact of developing through the six phases described in the first part of this article. However, they differ within their constitutive purpose and within their phases of development. For example, the procedures originating “expenditure legislation” are procedures of authorization, while those creating “revenue legislation” are procedures of concession, which often arise out of the Budget Speech; “private bills” are introduced by private members, while “public bills” are usually introduced by the Cabinet; “new laws” often represent the culmination of a major government initiative, or the acceptance by the government of recommendations presented by a Task Force or Royal Commission of Inquiry, while “minor amendments” often result from the work of a technical committee.<sup>24</sup>

To understand the differences among these groups of procedures is essential for understanding the function and the intrinsic meaning of their documentary residue, and for evaluating it. However, such an understanding always begins with a direct examination of the documents embodying the procedures, and with an identification of their purpose. This direct examination and identification of purpose reveals another difference between the medieval and the modern worlds: whereas in the medieval context, each given documentary form was the result of one specific procedure and aimed at one specific purpose, in the modern context, procedures which are different, not as to their structure but as to their purpose, may create the same documentary forms; and, vice-versa, procedures having the same purpose may produce different documentary forms. However, this only reinforces the point made by diplomacy that documentary products must be “mapped” according to the functions and activities of their creators by reconstructing and examining the procedures of document-creation. This methodology of analysis, moreover, permits us to gain a knowledge of where and how information of a documentary nature can be shared among functions and juridical persons. For example, a series of retention and disposal schedules is a product of a constitutive procedure of authorization with respect to the archival institution which is competent for their approval, while it is a product of an executive procedure with respect to the document-creating agency which is competent for implementing them. The reconstruction of the typical procedure producing the schedules will allow us to identify the “workflows” which carry information both horizontally and vertically throughout an organization and between distinct organizations.

In conclusion, how can the diplomatic theory of document-creation provide a solution to the problem delineated by Gérard and Christiane Naud? How does it help us to understand whether a category of modern documents is equivalent to another

category created in the past? This writer believes that diplomatic theory helps us by providing a method of analysis based on principles. The *principles* are:

- 1) Every procedure has the same ideal structure:
  - i) The form of manifestation of the partial acts concurring with the main transaction is irrelevant to that structure, and so is the private or public nature of the juridical persons initiating and/or participating in the transaction.
  - 2) All documents and the procedures generating them can be divided into categories on the basis of the purposes they were meant to accomplish:
    - i) The variation of the organizational principle on which a juridical system is founded is irrelevant to the general categorization, and so is the private or public nature of the juridical persons initiating and/or participating in the procedure.

The *method* is very familiar to archivists. Faced with a document or a group of documents (file, dossier, series), the archivist conducts his/her inquiry into its or their genesis from the point of view of the creator of the fonds to which the document(s) belong(s). When dealing with a single document, the archivist tries to identify, on the basis of its extrinsic and intrinsic elements of form and of its provenance,<sup>25</sup> its process of creation and the superior procedure in which it participated. When dealing with a group of documents, the archivist's inquiry will first be directed to the identification of those documents which participated in the same transaction, and then to the establishment of the procedural relationships existing among them, and of the analogous relationships between them and those documents in the same group which participated in other transactions. Afterwards, the archivist investigates how the group of documents under examination participated in superior procedures, and studies and categorizes them in absolute and contextual terms.

This method of analysis does not focus on subjects, but on actions of a very specific kind (i.e., initiative, inquiry, consultation, etc.); not on creating agents, but on creating procedures with defined purposes (i.e., organizational, instrumental, executive, etc.). The results of this focused analysis can then help to guide the efforts of appraisal, selection, arrangement and description, not only of the material analysed but also of all similar material. "What must be perceptible to those who read [archival descriptions], is the chain of the different stages of administrative action, the hierarchy of its aspects and sub-aspects, the hierarchy of its purposes . . . The vocabulary employed shall be coherent . . . with regard to the actions."<sup>26</sup> This kind of study does not displace the traditional archival inquiry into records creators, organizational structures and subjects, but accompanies and complements it, just as the diplomatic analysis of juridical systems supports the reconstruction of administrative histories, and the diplomatic examination of physical and intellectual forms guides the study of content.

North American archivists instinctively have long recognized the need to understand the routines governing creation of archives, but only with the acquisition of electronic records, particularly shared databases, has the central importance of procedure affected their thinking. "An information system [writes John McDonald] is a collection of records . . . and processes, which are organized to perform a specific set of functions in support of a defined set of objectives."<sup>27</sup> The United Nations Advisory Committee for the Coordination of Information Systems, moreover, points out, "Indeed, as we examine the electronic records landscape, it becomes increasingly evident that the life

cycle of the records (application) system, and not the record, must be the new focus of attention. And, on reflection, we can see that it was, or should have been, the focus of attention in paper systems as well.”<sup>28</sup> The terminology used by electronic records specialists is very different from diplomatic terminology, but the message conveyed is clear: an understanding of procedures is the key to the understanding of information systems.

It might be observed that, with regard to electronic systems, we do not begin the analysis from the observation of the documents. However, upon reflection, it is possible to see that we do. “Systems developers are using tools and techniques that facilitate the design of systems to manage the movement of (normally) structured information through pre-defined structured steps to achieve some pre-defined product (e.g., cheques, licences, etc.) in support of a programme activity.”<sup>29</sup> Indeed, when we try to explore how the information system functions, we have in mind those pre-defined products; we know what the ultimate purpose of the system is. We can use the same approach suggested for paper systems. Close analysis of documentary products leads us to characterize the procedures by which they are created, on the basis of the ideal diplomatic procedure. We can then typify or generalize those procedures. At this point, instead of laboriously analysing every document to tease out from it an understanding of the procedures, we can begin by asking ourselves — knowing the kinds of possible procedures — what kind we face in any given instance.

It might also be observed that in many cases we already know the procedures from various sources such as annual reports, procedure manuals, policy files. But do we? These sources tell us how administrative action was supposed to be carried out, rather than how it actually was carried out; they tell us what the procedures ought to be, what management expected to happen, what the system was built for, and finally what the image was that the creating agency wished to reflect.<sup>30</sup> On the contrary, an analysis of the procedures which begins from their final products allows a verification of the discrepancies between rules and actuality and of the continuous mediation taking place between legal-administrative apparatus and society, and makes the reality attainable. This has always been the primary purpose of diplomatic analysis, and its value has not decreased. European archivists of the past generation used to teach their students to “let the records tell their story,” which may still be accepted as good advice by contemporary archivists. But, to understand that story, we may need a few more instruments. To provide them, the next article in this series will present the extrinsic and intrinsic elements of documentary forms.

### Notes

- 1 Luciana Duranti, “Diplomatics: New Uses for an Old Science. (Part II),” *Archivaria* 29 (Winter 1989-90), pp. 5-17, and Luciana Duranti, “Diplomatics: New Uses for an Old Science. (Part III),” *Archivaria* 30 (Summer 1990), pp. 5-20.
- 2 Alain de Boüard, *Diplomatique générale* (Paris: Editions Auguste Picaud, 1929), p. 62. De Boüard mentions the fact that medieval formularies distinguished between the *tempus in quo ea facta sunt superquibus litera datur* (the moment when the facts about which documents are written take place), and the *tempus in quo datur litera* (the moment when documents are written). He also points out that Mabillon separated in his examination the *res transacta* (transaction) from the *instrumentum confectum* (recording). Duranti, “Diplomatics . . . (Part II),” p. 5.
- 3 “Mais la diplomatique générale ne s’en tien pas à ce premier résultat. Elle compose, de l’ensemble des catégories concrètes, un acte idéal permettant à l’analyse d’exposer et d’examiner dans l’ordre de leur

- succession logique tous les faits qui . . . parent provoquer la naissance [du document] ou concourir à sa formation." De Bouïard, p. 66. This and all the following quotations from French texts are translated into English by this writer.
- 4 For an illustration of the concept of public authority, see Duranti, "Diplomatics . . . (Part III)," p. 14.
  - 5 We have a *simple act* when the power of accomplishing the act is concentrated in one individual or organ. Duranti, "Diplomatics . . . (Part II)," p. 13.
  - 6 A simple act, and, in the specific case, the *iussio*, has however a hidden procedural nature, which will be discussed later on in this article.
  - 7 A *compound act on procedure* is an act which derives from an established sequence of different acts having the common aim of making possible the accomplishment of the final act. Duranti, "Diplomatics . . . (Part II)," p. 14.
  - 8 We have a contract when the power of accomplishing the act belongs to two or more interacting parties. Duranti, *ibid.*: p. 13.
  - 9 Jack Goody calls this tendency "actional formalism." His arguments, even if only indirectly related to the subject of this article, may be of great interest to archivists. (Jack Goody, *The Logic of Writing and the Organization of Society* (Cambridge: Cambridge University Press, 1986), p. 144.
  - 10 The sets of routines governing the moment of the action and the moment of documentation as described by diplomats of medieval documents can be found in all major manuals of diplomatics. This author has followed in particular the schematization presented by Alessandro Pratesi, *Elementi di Diplomatica Generale* (Bari: Adriatica Editrice, n.d.), pp. 29-51, and by de Bouïard, *Diplomatique*, pp. 62-111.
  - 11 The concepts of compound act and act on procedure are explained in note 7. A *continuative act* is a compound act made of a sequence of identical acts accomplished by the same individual or organ. Duranti, "Diplomatics . . . (Part II)," p. 14.
  - 12 "Alors que la charte médiévale concentre l'information sur l'histoire dont elle est l'outil et le produit, représentant une sorte de noeud d'information, le papier administratif contemporain ne livre lui, que l'un des éléments d'une information atomisée. La pièce d'un dossier n'a d'intérêt que si elle est à sa place dans le dossier, qui est, lui, l'unité de base, l'outil de base, du travail administratif." Gérard et Christiane Naud, "L'analyse des archives administratives contemporaines," *Gazette des Archives* 115 (4e trimestre 1981), p. 218.
  - 13 *Dispositive* documents are those executing an act. *Probative* documents are those providing evidence of an act which was executed before being documented. Duranti, "Diplomatics . . . (Part II)," pp. 7-9.
  - 14 Because these phases are described out of context and with no reference to the author of the procedure and/or the documents listed as examples, the term "created" is used in the general sense. Also, it has to be pointed out that, from a logical point of view, all these phases are included in every procedure, even if not in a formal way.
  - 15 Paola Carucci, *Il Documento Contemporaneo. Diplomatica e Criteri di Edizione* (Roma: La Nuova Italia Scientifica, 1987), pp. 47-63. Carucci, illustrating the procedure typical of contemporary Italian administration, does in fact describe the same procedure that this writer has rationalized.
  - 16 "L'action administrative procède en effet par cascades et par ramifications, du général au particulier et vice-versa. Le règlement d'une affaire suit simultanément plusieurs canaux qui se séparent puis se rejoignent, chaque service, bureau ou fonctionnaire étant chargé d'une partie de la procédure totale. . . le problème est celui du point de vue duquel se placer et nous pensons que l'archiviste doit adopter le point de vue . . . de l'administration productrice des archives." Naud, "L'analyse des archives . . .," pp. 218 and 223.
  - 17 "Des étapes d'une action ou des stades d'une procédure, la forme des documents rencontrés résultant en fait de l'état d'avancement de la procédure": *ibid.*, p. 226.
  - 18 "Et si l'on tient compte de ce que le *dossier* coïncide rarement avec *l'article*, étant généralement plus petit ou plus grand, on voit que l'unité à décrire sera nécessairement le dossier ou la partie de dossier. S'il faut décrire la partie de dossier, il faut préciser l'élément de procédure dont elle résulte. C'est pour cela que nous introduisons dans la description du contenu des articles un élément identifiant *l'action* dont résulte l'existence des dossiers ou du dossier ou des sous-dossiers qu'il contient. C'est également pour cela qu'une solution doit être trouvée qui permette de situer l'action dont résulte l'unité décrite, dans le cadre d'une action plus générale, c'est-à-dire de la mission ou de l'attribution en vertu de laquelle l'administration versante a agi": *ibid.*, p. 218. For those who are not familiar with French archival terminology, it should be pointed out that a *dossier* consists of the documentary residue of an entire transaction, while the concept of *article* corresponds to the concept of file. Therefore, it is quite clear that a file may be a part of a transaction, or may contain a number of transactions (i.e., related to the same matter).
  - 19 *Ibid.*, p. 226. Gérard and Christiane Naud write that, when transferred from the creating office to the archival repository, each dossier should be described by mentioning the following elements: the

transferring body, the agent of the administrative action of which the dossier was the instrument, the action, the subject of the action, date and place, elements of form. They also explain with an abundance of examples how to identify action and subject without confusing the two, particularly when the subject is an action itself (i.e., when the action of individuals is the subject of an action of an administration). *Ibid.*, pp. 220-25.

- 20 *Ibid.*, p. 222.
- 21 "Alors que les procédures administratives évoluent rapidement, en même temps que les techniques de traitement de l'information dans les bureaux, nous nous heurtons sans cesse au problème de savoir si telle ou telle catégorie actuelle de documents est équivalente à telle ou telle autre ancienne catégorie . . ." *ibid.*, p. 216.
- 22 Carucci, *Il Documento Contemporaneo*, p. 56.
- 23 Duranti, "Diplomatics . . . (Part II)," p. 5.
- 24 Heather Heywood, Bob Krawczyk, Mary Ledwell, and Janice Simpson, "An Identification of Legislative Procedures." (paper prepared for the course ARST 601. Diplomatics; Master of Archival Studies, University of British Columbia, 1989). A study of special diplomatics on the organizational, instrumental, and executive procedures of Parliament has still to be conducted, but it can be generally said that the procedures leading to the creation of internal rules meant to guide the conduct of parliamentary business have an organizational character, that those guiding the expression of opinions of committees and task forces have an instrumental character, and that those which constitute routines for the regular transaction of have an executive character (i.e., procedure for the constitution of a technical committee). Studies of special diplomatics on the procedures of municipal departments and of provincial courts have been conducted in 1989 by two other groups of students enrolled in the Master of Archival Studies programme.
- 25 The extrinsic and intrinsic elements of form will be presented in the fifth article of this series. However, a basic introduction to those elements as clues to an understanding of procedures can be found in Janet Turner, "Experimenting with New Tools: Special Diplomatics and the Study of Authority in the United Church of Canada," *Archivaria* 30 (Summer 1990), pp. 91-103. The forms of transmission of documents are discussed in Luciana Duranti, "Diplomatics . . . (Part I)," pp. 19-21.
- 26 "Ce qui doit être perceptible à la lecture est l'enchaînement des diverses étapes de l'action administrative, la hiérarchie de ses aspects et sous-aspects, la hiérarchie de ses objets . . . le vocabulaire employé devra être cohérent . . . en ce que concerne les actions." Naud, "L'analyse des archives . . ." pp. 229 and 232.
- 27 John McDonald, "The Archival Management of a Geographic Information System," *Archivaria* 13 (Winter 1981-82), p. 60.
- 28 *Management of Electronic Records: Issues and Guidelines* (New York: United Nations, 1990), pp. 22-23.
- 29 John McDonald, letter to the writer, 25 September 1990.
- 30 About the importance of assessing the discrepancy between image and reality by analysing the documentary product of activities, see Terry Cook, *The Archival Appraisal of Records Containing Personal Information: A RAMP Study with Guidelines*, (Paris, Unesco, 1990), in press.