

Diplomatics: New Uses for an Old Science (Part V)

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Still glides the stream, and shall for ever glide
The form remains, the function never dies

Wordsworth, *The River Duddon*, 34,
"Afterthought"

The form of a document reveals and perpetuates the function it serves. On the basis of this observation, early diplomatists established a methodology for an analysis of documentary forms which permitted an understanding of administrative actions and the functions generating them. This methodology rested on the assumption that, notwithstanding differences in nature, provenance or date, all documents present forms similar enough to make it possible to conceive of one typical, ideal documentary form, the most regular and complete, for the purpose of examining all its elements.¹ Once the elements of this ideal form have been analysed and their specific function identified, their variations and presence or absence in existing documentary forms will reveal the administrative function of the documents manifesting those forms.

Diplomatics defines *form* as the complex of the rules of representation used to convey a message, that is, as the characteristics of a document which can be separated from the determination of the particular subjects, persons or places which it concerns. Documentary form is both physical and intellectual. The term *physical form* refers to the external make-up of the document, while the term *intellectual form* refers to its internal articulation.² Therefore, the elements of the former are defined by diplomatists as external or *extrinsic*, while the elements of the latter are defined as internal or *intrinsic*.³ From a conceptual point of view, it may be said that intrinsic elements of form are those which make a document complete, and extrinsic elements are those which make it perfect, that is, capable of accomplishing its purpose.⁴

This article will present and discuss the extrinsic and intrinsic elements of documentary form, and will show their relationship with administrative actions and functions.

The Extrinsic Elements of Documentary Form

The extrinsic elements of documentary form are considered to be those which constitute the material make-up of the document and its external appearance. They can be

examined without reading the document and are integrally present only in the original.⁵ They are the medium, the script, the language, the special signs, the seals and the annotations. The study of these elements is properly the object of paleography, at least since the separation of this discipline from diplomacy formally took place in the nineteenth century.⁶ However, diplomacy maintains its interest in them because the purpose of its analysis of those elements, namely the understanding of administrative processes and activities, is not directly pursued by paleography, which is more generally aimed at gaining an understanding of societal evolution, and of cultural, intellectual, ideological, economic and technical developments. Of course, diplomacy uses the intellectual instruments provided by paleography and other disciplines (e.g., sigillography) to analyse some of the extrinsic elements and their components, such as inks, illuminations, graphic characters and seals, but it only looks at specific aspects of them and for specific reasons. In fact, only certain parts of those extrinsic elements are especially relevant to diplomacy.

The first extrinsic element to consider is the *medium*, the material carrying the message. Traditionally, it has been essential for diplomatists to identify it (whether papyrus, parchment, paper, wooden tablet, etc.), to find out how it was prepared (e.g., the paste of the paper, the watermarks), and to note both its shape and size (or format) and the techniques used to prepare it for receiving the message (e.g., edging, ruling). This type of analysis was very important for medieval documents, because it made it possible to date them, establish their provenance, and test their authenticity. Later, much of its relevance was lost because offices were provided with their writing materials by manufacturing industries which served a great number of customers, and large bureaucracies adopted common materials. Today, with the increasing number of different types of physical media (e.g., magnetic tapes, optical discs), close attention to the medium chosen to carry a type of information can be very revealing of the ultimate purpose of that information — how it was meant to be used.

The other extrinsic element which used to have great significance for diplomatists, but progressively lost it, is the *script*. While it is the task of paleography to determine what type of script is proper to an era and an environment, it is the task of diplomacy to examine other characteristics of the script, such as the layout of the writing with respect to the physical form of the document, the presence of different hands or types of writing in the same document, the correspondence between paragraphs and conceptual sections of the text, type of punctuation, abbreviations, initialisms, ink, erasures, corrections, etc. With the invention of the printing press and, much later, of the typewriter, some of these characteristics became irrelevant to the purpose of diplomatic criticism. The need for careful examination of these characteristics is arising again, however, thanks to the advent of new technology. Computer software, for example, may be considered as part of the extrinsic element “script,” because it determines the layout and articulation of the discourse, and can provide information about provenance, procedures, processes, uses, modes of transmission and, last but not least, authenticity. Also, the verification, editing and enhancement of the documentation associated with an electronic information system, carried out by the archivist who acquires the related electronic data files, is a modern form of diplomatic analysis of the script. Another example of such an analysis is the study leading to the definition of the Office Document Architecture (ODA) standard. The key feature of ODA is that it separates the “logical structure” of a document (i.e., paragraphs, sections and the relationship between them) from its “lay-

out structure" (i.e., pagination, formatting), its "content" (in the technical jargon of the specialists, the way in which the message is represented: e.g., text and graphics), and its "profile" (which corresponds to the diplomatic "intrinsic elements"). The first three of the above four elements constitute those parts of the script with which diplomatics is concerned.

The *language* used in the document is an extrinsic element the importance of which is usually overlooked today, but which has been in the past the focus of attention by many diplomatists. Arthur Giry writes that because documents created in the course of administrative activity are destined to regulate interests,

the ideas expressed in them and the categories of facts to which they relate are necessarily limited in number, and recur very frequently in documents of the same type. Moreover, because it is important to discern easily the essential message within a document, ideas and facts are arranged in a given order which allows for ease of comprehension. Finally, because the expression and the organization [of those ideas and facts] must be such that there will not be equivocations or misunderstandings, nor any need to refer again to the subject, specific expressions and entire sentences are chosen and made into formulas.⁷

Since the early Middle Ages, the art of composition and style was the subject of regular instruction, which determined the development of a sort of documentary rhetoric, called *ars dictaminis* or *dictamen*. Theorists established its rules, which were meant to direct the composition, style and rhythm of every type of public document, private contract and business and family correspondence. The various treatises which resulted used to be accompanied by collections of models and examples, or of copies of actual documents, assembled for the purpose of showing the application of the doctrine. These volumes, regularly used by public officers, notaries and all those who needed to communicate in writing, were called *formularia*.⁸ Their production gradually diminished with the development of elementary education, but they are still created today for the use of some professionals involved in the creation of types of documents the language of which is highly standardized and controlled, such as lawyers.⁹ With regard to electronic records, the codebook may be considered a modern *formularium* because of its instructional character.

The element of language is also studied, particularly by diplomatists of contemporary documents, from a social point of view. Different social groups use different forms of discourse and different vocabularies, and within each of them formal or informal styles are adopted, depending on the purpose and function of the documents created. There is no doubt about the existence of a curial, a journalistic, a political, a business, a scientific and a colloquial style. But it is important to underline that not just the style, but also the wording and composition of the documents created, for example, by a reporter, are radically different from those created by a lawyer, while those of a document created by a lawyer in carrying out his notarial function are different from those found in a lawyer's letter to a colleague.¹⁰

Among the extrinsic elements, diplomatists of medieval documents used to include the *special signs*, which should be regarded rather as intrinsic elements because of their function of identifying the persons involved in the documentation activity. The special signs can be divided into two categories: the signs of the writer and the subscribers, and

the signs of the chancery or the records office. The first category includes the symbols used by notaries as personal marks in the medieval period, corresponding to the modern notarial stamp, and the crosses used by some subscribers in place of their name. The second category includes the *rota* and *bene valete* used by the papal chancery; the monogram of the sovereign's personal name used in imperial and royal chanceries; the initials *m.p.r.* for *manu proprio*; the double *s* for *s(ub)s(cripsi)*; and all the various office stamps.¹¹

The most important extrinsic element of medieval documents, and the least common and relevant in contemporary documents, is the *seal*. Examining seals, diplomatists focus their attention on the material they are made of, their shape, size, typology (as it relates to the figure in the impression: heraldic type, equestrian, monumental, hagiographic, majestic, etc.), legend or inscription (the invocation, motto or title and name of the author, which runs clockwise around the central figure along the edge of the seal, starting from the top), and the method of affixing them (seals may be hanging or adherent). The analysis of these components is directed to ascertaining the degree of authority and solemnity of a document, its provenance and function, and its authenticity.¹²

The last extrinsic element to be considered, and the most relevant for contemporary documents, is the *annotations*. These can be grouped in three categories: 1) annotations included in a document after its compilation as part of the execution phase of an administrative procedure;¹³ 2) annotations included in a complete and effective document in the course of carrying out the subsequent steps of the transaction in which the document participates; and 3) annotations added to a document by the records and/or archives service which is responsible for its identification as part of a group of documents (file, series) and for its maintenance and retrieval.

The main components of the first category of annotations include authentication and registration. *Authentication* may refer to one or more signatures, to an entire document, or to a copy of a document. It is the legal recognition that a signature is affixed by and belongs to the person whose name it expresses, that a document is what it purports to be, or that a copy conforms to the original.¹⁴ *Registration* is the action of transcribing a document in a register, carried out by an office different from that issuing the document and specifically entrusted with that function. When registration takes place, the number assigned to the document in the register is included in the document with a formula attesting to that action. This formula and the registration number may be added to the document, not by the registration office, but by the notary or lawyer responsible for the compilation of the document, following proper authorization by the registration office.¹⁵

The second category of annotations comprises components such as question marks, initials, check marks and similar signs beside the text; indication of previous and/or following actions; dates of hearings or readings; notes of transmission to other offices; indication of future disposition; mention of the subject of the document; or locutions such as "Urgent," "Bring forward," "Leave in abeyance," and so on.

The third category of annotations includes components such as the *registry number*, that is, the consecutive number assigned to incoming and outgoing mail in offices using the registry system; the *classification number*, which identifies a document and places it in relationship to those of the same transaction, file and series; *cross-references* to

documents in other files and/or series; *date and office of receipt*; and *archival identifiers*, such as the consecutive page numbers given by an archives service, location codes, etc.

Annotations constitute the extrinsic element which most clearly reveals the formative process of a document, the way in which it participates in a transaction or procedure, and its custodial history.

To sum up, the extrinsic elements of documentary form as identified by diplomatics are the following:

<i>Medium:</i>	material format preparation for receiving the message layout, pagination, formatting type(s) of script different hands, typefaces or inks paragraphing
<i>Script:</i>	punctuation abbreviations and initialisms erasures and corrections computer software formulae
<i>Language:</i>	vocabulary composition style
<i>Special signs:</i>	signs of writers and subscribers signs of chanceries and record offices
<i>Seals:</i>	material shape and size typology legend or inscription method of affixing
<i>Annotations:</i>	included in the execution phase authentication registration signs beside text previous or following actions dates of hearings or readings notes of transmission disposition subject "Urgent" "Bring forward" registry number classification number included in the management phase cross-references date and office of receipt archival identifiers

The Intrinsic Elements of Documentary Form

The intrinsic elements of documentary form are considered to be the integral components of its intellectual articulation: the mode of presentation of the document's content, or the parts determining the tenor of the whole. The study of a great number of documents has shown that the elements which compose their intellectual form "are not simply juxtaposed, but tend to gather in groups, to be in some relationship of subordination one to the other, thereby forming sections each of which comprises several of them."¹⁶ Therefore, it is possible to say that all documents "present an obvious typical structure" and "an ideal analytical sub-structure."¹⁷ This ideal sub-structure comprises three sections, each of which has a specific purpose. The first, termed *protocol*, contains the administrative context of the action (i.e., indication of the persons involved, time and place, and subject) and initial formulae; the second, termed *text*, contains the action, including the considerations and circumstances which gave origin to it, and the conditions related to its accomplishment; the third, termed *eschatocol*, contains the documentation context of the action (i.e., enunciation of the means of validation, indication of the responsibilities for documentation of the act) and the final formulae.¹⁸ The three sections tend to be physically distinct and recognizable, even in medieval and early modern documents, which are not divided into paragraphs: usually, the three parts were identified by writing the first word of each, and sometimes also the last, in a different script, style or dimension.

The intrinsic elements of form which usually appear at the beginning of the document, that is, in its *protocol*, are numerous.¹⁹ Some of them are typical of medieval documents, others of contemporary ones; some are characteristic of documents issued by public authorities, others of those issued by private juridical persons; some belong in solemn documents, others in business documents; finally, some are mutually exclusive while others tend to coexist. They are described here in the order in which they appear when they are all present.

In modern documents, at the very top we may have the *entitling*, which today may correspond to the letterhead. It comprises the name, title, capacity and address of the physical or juridical person issuing the document, or of which the author of the document is an agent. Under the entitling or in its place we may give the *title* of the document (e.g., "Indenture," "Agreement," "Minutes," "This is the Last Will and Testament").

In contemporary documents, the entitling is usually followed by the *date*, indicating the place (*topical* date) and/or the time (*chronological* date) of the compilation of the document and/or of the action which the document concerns. In medieval and early modern documents the date is in the *eschatocol*.²⁰ In very solemn documents the date is present in both *protocol* and *eschatocol*.

The *invocation*, that is, the mention of God, in whose name each action had to be done, was present in both public and private documents in the medieval period. It can still be found in documents issued by religious bodies, but more and more rarely. When it appears, it takes a verbal form (starting with the words "in the name of") or a symbolic form (expressed by a cross, the Constantinian monogram for Christos, or the 'I' and 'C', for Jesus and Christus). The mention of God is in the *eschatocol*, when he is called to witness an act (e.g., an oath). It is possible to say that modern and contemporary documents contain an invocation whenever they present a claim that the act therein is done in the name of the people, the king, the republic, the law or other similar entities.

A typical element of the protocol used to be the *superscription*, that is, the mention of the name of the author of the document and/or the action. Today, the superscription tends to take the form of an entitling; sometimes, however, it coexists with the entitling. It still appears by itself in all contractual documents (the superscription includes the mention of the first party),²¹ in declarative documents (those beginning with the pronoun "I," followed by the name of the subscriber), and in holographic documents, such as wills (e.g., "This is the last will and testament [title] of John Smith of Vancouver" [superscription]).

Documents in epistolary form usually present in their protocol the name, title and address of the addressee of the document and/or the action. This element is termed the *inscription*. It may be a *nominal* inscription or a *general* one. The former refers to one or more specific person(s), while the latter refers to a larger, indeterminate entity, such as the citizens, the people, the believers, the students, all those concerned, or "To all to whom these presents shall come." In contractual documents, given that the first party is considered to be the author, any other party is the addressee and the mention of his/her/their name(s) constitutes the inscription of the document. The inscription is regularly present in dispositive documents, often in supporting and narrative documents, but very rarely in probative documents, because usually the latter are not directed to the person to whom they are issued (e.g., certificates).

The inscription is generally followed by the *salutation*, a form of greeting which appears only in letters. In modern and contemporary documents the salutation is often in the eschatocol; sometimes it is in both the protocol and the eschatocol.

Today, the inscription may be followed by the *subject*, rather than by the salutation, that is, by a statement signifying what the document is about. The subject has been stated in some court records since the last century, but has generally been introduced into records of governmental bureaucracies and, by extension, into business records during this century.

Typical of medieval and early modern documents conferring titles or privileges is an element called *formula perpetuitatis*. It is a sentence declaring that the rights put into existence by the document are not circumscribed by time: *in perpetuum* (forever), *ad perpetuam rei memoriam* (in continuing memory), or *pp.* (abbreviation of *perpetuum*).

Another medieval formula is the *appreciation*, that is, a short prayer for the realization of the content of the document: *feliciter* (happily), or *amen* (so be it). It appears in the protocol in private documents, and in the eschatocol in public documents, following the date. A modern form of appreciation may be considered to be the expression which often concludes contemporary documents, and which is introduced by the words "looking forward to," "I appreciate," "I hope," etc.

The *text* is the central part of the document, where we find the manifestation of the will of the author, the evidence of the act, or the memory of it. From an historical, legal and administrative point of view this is usually the most important part of the document, because it represents its substance, the reason for its existence. However, to the diplomatist, the text does not offer more material for the criticism of the document than the other two sections.

The text often begins with a *preamble*, which expresses the ideal motivation of the action. It does not give the concrete and immediate reason for which the document was

created, or the action accomplished, but the ethical or juridical principle. It consists of general considerations, which are not directly linked to the subject of the document, but express the ideas which inspired its author. The preamble has the purpose of engaging the addressee's interest and ornamenting the discourse, and is therefore composed of moral or pious expressions, sentences expressing political conceptions, administrative policies, legal principles, feelings of friendship, cooperation, interest, security, and so on. The preamble has never been an essential part of the text, thus its presence indicates solemnity or formalism. In modern legal documents, the preamble contains a citation of the laws, regulations, decrees, or opinions on which the act rests. Today, just as in the past, it is possible to notice that some types of documentary form have their own specific, and often stereotyped preamble. "When this part of the text is not copied from ancient formularia or previous acts, one recognizes in it, better than in any other part, the mark of an epoch, the characteristics typical of certain categories of acts or of certain chanceries, and also the imprint of the personality of its author. The ideas themselves which are expressed in the preamble can serve in some measure as elements of criticism."²² (For example, in royal letters patent of appointment, the preamble reads: "Whereas We have taken into Our Royal Consideration the Loyalty, Integrity and Ability of Our Trusty and Well-beloved . . .").

In some official dispositive documents the preamble is followed by the *notification*, that is, by the publication of the purport of the document. Its purpose is to express that the act consigned to the document is communicated to all those who have interest in it and, as well, that all persons concerned must be aware of the dispositive content of the document. The notification consists of a formula, such as "*notum sit*," "be it known," "know you," and sometimes commences the text and is followed by, or exists without the preamble.

The substance of the text is usually introduced by the *exposition*, that is, the narration of the concrete and immediate circumstances generating the act and/or the document. In documents resulting from procedures, whether public or private, the exposition may include the memory of the various procedural phases, or be entirely constituted by the mention of one or more of them. Thus, in documents conceding something, there is a mention of the request, of the reasons for the request and for its acceptance, and of the consensus and advice of the interested parties; in documents relating to contentious acts, there is the history of the case and its development; in warrants, we find a narration of facts, circumstances, reasons determining the decision, and so on.²³ Sometimes the exposition includes names of individuals who have participated in the decision-making process, such as intermediaries, advisers, friends or relatives. It happens that many documents, both public and private, originate from analogous situations. In these cases, the narration becomes a stereotyped formula which, in legal documents, especially in those of a contractual nature, is prescribed by law. In contemporary documents, such a formula is usually preprinted formally, and begins with "whereas."

The core of the text is the *disposition*, that is, the expression of the will or judgement of the author. Here, the fact or act is expressly enunciated, usually by means of a verb able to communicate the nature of the action and the function of the document, such as "authorize," "promulgate," "decree," "certify," "agree," "request," etc. The verb may be preceded by a word or locution which puts the disposition in direct relationship to the previous exposition or preamble, such as "therefore," "hereby," etc. There are specific formulas routinely used for certain types of transaction, but generally the disposition

varies from one document to another because there are no two acts which are quite the same.

In many documents the text ends with the disposition, that is, as soon as the substance of the action is expressed. The text of most documents, however, contains after or within the disposition several formulae, the object of which is to ensure the execution of the act, to avoid its violation, to guarantee its validity, to preserve the rights of third parties, to attest the execution of the required formalities, and to indicate the means employed to give the document probative value. These formulae constitute the *final clauses* which can be divided into groups as follows:

Clauses of injunction: those expressing the obligation of all those concerned to conform to the will of the authority.

Clauses of prohibition: those expressing the prohibition to violate the enactment or oppose it.

Clauses of derogation: those expressing the obligation to respect the enactment, notwithstanding other orders or decisions contrary to it, opposition, appeals or previous dispositions.

Clauses of exception: those expressing situations, conditions or persons which would constitute an exception to the enactment.

Clauses of obligation: those expressing the obligation of the parties to respect the act, for themselves and for their successors or descendants.

Clauses of renunciation: those expressing consent to give up a right or a claim.

Clauses of warning: those expressing a threat of punishment should the enactment be violated. They comprise two categories: 1) *spiritual sanctions*, comprising threats of malediction or anathema; 2) *penal sanctions*, comprising the mention of specific penal consequences.

Promissory clauses: those expressing the promise of a prize, usually of a spiritual nature, for those who respect the enactment.²⁴

Clauses of corroboration: those enunciating the means used to validate the document and guarantee its authenticity. The wording changes according to time and place, but these clauses are usually formulaic and fixed. Examples are "I have hereunto set my Hand and Seal of Office," "Signed and Sealed," "Witness our Trustworthy and Beloved . . .," etc.²⁵

More and more often, particularly in solemn, official and legal documents, the clause of corroboration begins the *eschatocol*, immediately followed by the topical and chronological date, or a reference to the date expressed in the protocol (e.g., "In Testimony whereof I have hereto set my hand and seal at Johnstown aforesaid this fourth day of July in the year of our Lord one thousand eight hundred and eight," and "In Witness Whereof, the said parties have hereunto set their hands and seals, the day and year first above written"). In non-official documents, and in documents of private origin, the eschatocol may begin with a sentence of appreciation, followed by the salutation, and by the *complimentary clause*, which consists of a brief formula expressing respect, such as "sincerely yours," "yours truly," and similarly. Whatever the case, the substance and core of the eschatocol is the *attestation*, that is, the subscription

of those who took part in the issuing of the document (author, writer, countersigner) and of witnesses to the enactment or the subscription. Usually, the subscription takes the form of a signature, but this is not always so; for example, telegrams and electronic mail messages present subscriptions which are not signatures. The attestation is the means generally used to validate a document, but is not present in every type of document. For example, account books, journals and invoices do not need a subscription to be valid because their process of creation validates them. Other documents present their validation in the protocol. This is typical of electronic records, but examples can also be found in traditional records: registries may be validated on the front page, memoranda may be signed or initialled on the side of the superscription, and documents issued by the English monarchs show the *signum manus* in the top left corner. A discussion of the various types of attestation, their meaning and their function, is not among the purposes of this article and would warrant the space of an entire article.²⁶

When the attestations are signatures, they are usually accompanied by the *qualification of signature*, that is, by the mention of the title and capacity of the signer. The qualification of signature may be followed by the *secretarial notes* (initials of the typist, mention of enclosures, indication that the document is copied to other persons, etc.), but usually it constitutes the last intrinsic element of documentary form.

To sum up, the intrinsic elements of documentary form are the following:

	entitling
	title
	date
<i>Protocol:</i>	invocation
	superscription
	inscription
	salutation
	subject
	<i>formula perpetuitatis</i>
	appreciation
	preamble
<i>Text:</i>	notification
	exposition
	disposition
	final clauses
	corroboration
	[date]
<i>Eschatocol:</i>	[appreciation]
	[salutation]
	complimentary clause
	attestation
	qualification of signature
	secretarial notes

The intrinsic elements listed above do not appear all at the same time in the same documentary form, and some of them are mutually exclusive. According to Hubert Hall, a typical English official document of the medieval period is composed as follows:

<i>Protocol:</i>	invocation superscription
<i>Text:</i>	preamble exposition disposition final clause of warning
<i>Eschatocol:</i>	date attestation ²⁷

However, it is the specific combination of those elements which determines the aspect of documentary forms, and allows us to distinguish one form from another at a glance.

The Structure of Diplomatic Criticism

The extrinsic and intrinsic elements of documentary form were identified by diplomatists through examining a great number of documents issued in different times and jurisdictions by different types of records creators for different purposes. The immediate aim of such identification was to put into direct correspondence the single components of documentary form with specific components of the administrative transaction, and the various combinations of those components with given types of transaction. Its ultimate purpose was to achieve the ability to see the function of documents through their form, to learn about functions as they were accomplished by each records creator, and thus to gain the knowledge necessary to verify the authenticity of documents which purport to have been created by a given juridical person while carrying out a specific function.

Diplomatic criticism therefore proceeds from the form of the document to the act initiated or referred to by the document. This analysis aims at understanding the juridical, administrative and procedural context in which the documents under examination were created.

The structure of diplomatic analysis is quite rigid and reflects a systematic progression from the specific to the general. This is the only direction which can possibly be taken when the context of the document under examination is unknown. Therefore, diplomatic criticism proceeds as follows:

<i>Extrinsic elements:</i>	medium script language special signs seals annotations
<i>Intrinsic elements:</i>	protocol subsections text subsections eschatocol subsections
<i>Persons:</i>	author of the act

	author of the document
	addressee of the act
	addressee of the document
	writer
	countersigner(s)
	witness(es)
<i>Qualification of signatures:</i>	titles and capacity of the persons involved
<i>Type of act:</i>	simple, contractual, collective, multiple, continuative, complex or procedural
<i>Name of act:</i>	e.g., sale, authorization, request
<i>Relationship between document and procedure:</i>	specification of the phase of the general procedure to which the document relates and, if the document results from an "act on procedure," the phase of the specific procedure
<i>Type of document:</i>	name (e.g., letter, indenture) nature (public or private) function (dispositive, probative, etc.) status (original, draft, or copy)
<i>Diplomatic description:</i>	context (year, month, day, place) action (persons, act) document (form name, nature, function, status, medium, quantity)
<i>Conclusive comments:</i>	any comment which would refer to the document as a whole rather than to a specific element of documentary form or component of diplomatic analysis ²⁸

As a demonstration of how diplomatic criticism of documentary forms is conducted, two documents are now analysed according to the pattern delineated above. This analysis is not complete because the extrinsic elements of documentary form can only be criticized on the basis of the original document.²⁹ However, the extrinsic elements which are essential to the understanding of the actions in which those documents participated are mentioned in the context of the analysis of those actions. No indication is given of the provenance of the two documents, in order to show more clearly the perspective of the diplomatists who devised this method of analysis.

Diplomatic criticism of the document in Figure 1.

Intrinsic elements:

<i>Protocol:</i>	"Piscataway . . . concern" entitling: "Piscataway . . . nation" and Insignia chronological Date: "June . . . 1980" inscription: "Archivio . . . concern"
<i>Text:</i>	"The Piscataway . . . hearing from you" preamble: "The Piscataway . . . identity"

PISCATAWAY INDIAN NATION



H: Andrew WHITE. open in bag - volume next ruler & Rome
June 18, 1980

Archivio Centrale Dello
Stato Piazzale Archivi (EUR)
Rome, Italy

To whom it may concern:

The Piscataway Indian Nation is the native people to the State of Maryland. We are a poor people trying to maintain our culture, heritage and identity.

According to information we have, a Jesuit Missionary, Father Andrew White, composed a catechism in the native dialect of the Piscataway Indians. He also compiled a grammar and dictionary in the Indian language. The catechism is reported to have been printed on one of the first printing presses in the colonies and was discovered years later in the Archives in Rome.

To go back a little, Father White along with several other Jesuits were one of the first to come to what is now known as the State of Maryland. Before to long he had baptized my people into the Catholic faith, of which our people are still devout.

What we would like to have is, if possible, copies of the Catechism, grammar and dictionary.

We understand that there is more than one Archives in Rome. If you are unable to help us in this matter, we would appreciate a listing of other Archives in Rome. We appreciate your time and effort in this matter and look forward to hearing from you.

May Mother Earth Endure Her Suffering.

Billy Redwing Taylor
Chief Billy Redwing Taylor
Piscataway Indian Nation

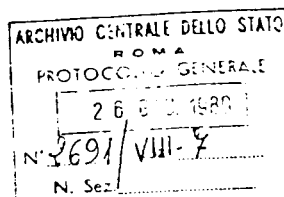


Figure 1



No.

600.534

To all to whom these presents shall come:

Whereas Reinhard Koffmeister,
 of Vancouver, Canada,

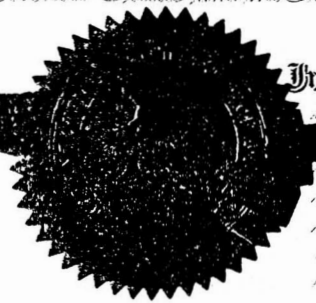
has presented to the Commissioner of Patents a petition praying
 for the grant of Letters Patent for an alleged new and useful improvement in

Brakes and Foot-Kicks for Bicycles.

a description of which invention is contained in the Specification of which
 a copy is herewith annexed, and made a part hereof, and has complied
 with the various requirements of Law in such cases made and provided: and

Whereas upon due examination made the said Claimant is adjudged
 to be justly entitled to a Patent under the Law:

Now therefore these **Letters Patent** are to grant unto the said
 Reinhard Koffmeister, his heirs or assigns
 for the term of Seventeen years from the *fifteenth* day of
March one thousand eight hundred and ninety eight
 the exclusive right to make, use, and vend the said invention throughout the
 United States and the Territories thereof.



In testimony whereof I have herewith set my
 hand and caused the seal of the Patent Office
 to be affixed at the City of Washington
 this *fifteenth* day of *March*
 in the year of our Lord one thousand eight hun-
 dred and ninety eight and of
 the Independence of the United States of America
 the one hundred and twenty second.

Wm. Davis

Countersigned.

C. A. Druell Assistant Secretary of the Interior
 Commissioner of Patents

Figure 2

	exposition: "According . . . devout" disposition: "What . . . dictionary" and "We . . . other archives in Rome" appreciation: "We appreciate . . . from you"
<i>Eschatocol:</i>	"May . . . Nation" appreciation: "May . . . Suffering" ³⁰ attestation: "Billy Redwing Tayac" qualification of signature: "Chief . . . Nation"
<i>Persons:</i>	author of the act: Piscataway Indian Nation author of the document: Piscataway Indian Nation addressee of the act: Archivio Centrale dello Stato (Rome) addressee of the document: Archivio Centrale dello Stato writer: Chief Billy Redwing Tayac ³¹
<i>Qualification of signature:</i>	Chief of the Piscataway Indian Nation
<i>Type of act:</i>	simple act
<i>Name of act:</i>	request for information
<i>Relationship between document and procedure:</i>	document participating in the initiative phase of a compound act on procedure ³²
<i>Type of document:</i>	letter; public; dispositive; copy ³³
<i>Diplomatic description:</i>	1980, June 18 [Maryland, U.S.A.]. The Piscataway Indian Nation asks the Archivio Centrale dello Stato in Rome for copies of a catechism, grammar and dictionary in its native dialect. 1 letter, public, dispositive, copy (A.D. 1980, June 26. Rome, Italy) ³⁴

Diplomatic criticism of the document in Figure 2.

Intrinsic elements:

<i>Protocol:</i>	"The United States of America . . . come" entitling: "The United States of America" title: "No . . . 600.534" (patent number) inscription: "To all . . . come"
<i>Text:</i>	"Whereas . . . Thereof" exposition: "Whereas . . . Law" disposition: "Now therefore . . . thereof"
<i>Eschatocol:</i>	"In testimony . . . Commissioner of Patents" corroboration: "In testimony . . . affixed" topical date: "at the City of Washington" chronological date: "this fifteenth . . . second" attestations: 2 signatures

	qualifications of signature: “Assistant Secretary of the Interior”, “Commissioner of Patents”
<i>Persons:</i>	author of the act: The United States of America author of the document: The United States of America addressee of the act: Reinhard Hoffmeister of Vancouver addressee of the document: “To all to whom these presents shall come” writer: the Assistant Secretary of the Interior, Davis countersigner: the Commissioner of Patents, Duell ³⁵
<i>Qualification of signatures:</i>	Assistant Secretary of the Interior, Commissioner of Patents
<i>Type of act:</i>	simple act
<i>Name of act:</i>	granting of a patent for an invention
<i>Relationship between document and procedure:</i>	document concluding the execution phase of a compound act on procedure ³⁶
<i>Type of document:</i>	letters patent, public, dispositive, copy ³⁷
<i>Diplomatic description:</i>	1898, March 15. Washington, D.C. The United States of America grants Reinhard Hoffmeister of Vancouver, Canada, a patent for an invention. 1 letters patent, public, dispositive, copy

The diplomatic criticism conducted above may seem a sterile exercise of identification and “labelling.”³⁸ However, the exercise itself is the key to an understanding of the action in which the document participates, and of the document itself. The names on the labels are indicators which direct attention to the entities which are relevant to the continuous process of extrapolation by the archivist. The effort of including the elements of real documents in the framework of diplomatic analysis is a necessary prelude to discovery and knowledge. One might object that archivists do not describe single items. That is not necessarily the case. When they do not, it is because they are already familiar with them — culturally familiar — and the process of extrapolation takes place spontaneously.

Diplomatics is a mind-set, an approach, a perspective, a systematic way of thinking about archival documents. How to make the best use of its concepts and methodology in archival descriptive work will be the subject of the next article, the sixth and last in this series.

Notes

- 1 De Bouard writes that the analogous composition and the common traits of different documents are due to the fact that most documentary forms find their origin in the Roman *epistola*. Alain de Bouard, *Manuel de Diplomatique Française et Pontificale. Diplomatique Générale* (Paris, 1929), p. 255. Giry writes: “en dépit des différences du droit, des coutumes et des usages, en dépit de nombreuses modifications dues aux circonstances particulières, aux influences locales, aux temps, ou même au caprice et à la fantaisie, il y a dans les chartes de toutes les époques et de tous les pays suffisamment de caractères communs pour qu’il soit possible d’en faire une étude méthodique.” Arthur Giry, *Manuel de Diplomatique*. 1893. Reprint. (New York, n.d.), p. 481.

- 2 Luciana Duranti, "Diplomatics: New Uses for an Old Science," *Archivaria* 28 (Summer 1989), p. 15 (hereinafter cited as: "Diplomatics." Part I).
- 3 See: Giry, *Manuel*, p. 493; Alessandro Pratesi, *Elementi di diplomatica generale* (Bari, n.d.), p. 52; Paola Carucci, *Il Documento Contemporaneo. Diplomatica e Criteri di Edizione* (Roma, 1987), p. 98.
- 4 Compare with the concept of originality as explained in Duranti, "Diplomatics." Part I, p. 19.
- 5 Pratesi, *Elementi di diplomatica*, p. 53.
- 6 This point is specifically made by de Bouard (*Diplomatique Française*, p. 224) and Giry (*Manuel*, p. 493).
- 7 "... les idées qui y sont exprimées et les catégories de faits qui y sont relatées sont nécessairement en nombre limité et se reproduisent assez fréquemment dans les documents du même genre. De plus, comme il est important que l'on discerne facilement dans un acte les dispositions essentielles, idées et faits y sont classés dans un ordre combiné de manière à en rendre l'intelligence facile. Enfin, l'expression et la disposition devant concourir à ce qu'il n'y ait ni équivoques, ni méprises, ni malentendus, et à ce qu'on n'ait point à revenir sur les choses exprimées, il en est résulté une recherche particulière d'expressions ou même de phrases entières toutes faites qui en constituent les formules." Giry, *Manuel*, p. 480. This and all the following quotations from French and Italian texts have been translated into English by the author.
- 8 For an ample discussion of the *dicamen* and the *formularia*, see de Bouard, *Diplomatique Française*, pp. 241-252, and Giry, *Manuel*, pp. 479-492.
- 9 Some collections of copies of real documents have been assembled by diplomatists who, concerned with the absence or loss of *formularia* for some historical periods, felt the need of having hand models to which they could compare the various documents to be analysed and identified as to form and function. An example is offered by Hubert Hall, *A Formula Book of English Official Historical Documents*. 2 vols. 1908-9. Reprint. (New York, 1969).
- 10 For a discussion of this issue see Carucci, *Il Documento Contemporaneo*, pp. 14-16.
- 11 Pratesi, *Elementi di diplomatica*, pp. 56-58. Giry considers the special signs to be an integral part of the validation of a document, and therefore discusses them in association with the subscriptions and signatures, that is, in the context of the "attestation," which is an intrinsic element of form. Giry, *Manuel*, p. 591.
- 12 For ample discussions of the seals from a diplomatic point of view, see Giry, *Manuel*, pp. 622-660, and de Bouard, *Diplomatique Française*, pp. 333-365.
- 13 The *execution phase* of an administrative procedure "is constituted by all the actions which give formal character to the transaction." Luciana Duranti, "Diplomatics: New Uses for an Old Science (Part IV)," *Archivaria* 31 (Winter 1990-91) (hereinafter cited as: "Diplomatics." Part IV).
- 14 When the date of authentication is different from the date on which the document was compiled, and which appears among the intrinsic elements of documentary form, the former is considered to be the effective date of the document, for the legal purposes of avoiding fraud.
- 15 Registration is not a "formal" requirement for any document. For private documents, registration is only required for fiscal purposes, or for making the document public. Therefore, documents are "formally" complete and effective without registration.
- 16 "les diverses parties qui composent un acte ne sont pas seulement juxtaposées, mais . . . elles se groupent entre elles, . . . elles se subordonnent en quelque sorte les unes aux autres, formant ainsi des divisions dont chacune comprend plusieurs des parties constitutives du document." Giry, *Manuel*, p. 527.
- 17 "i documenti . . . presentano una evidente struttura tipica . . . una partizione analitica ideale." Pratesi, *Elementi di diplomatica*, p. 62.
- 18 French and German diplomatists use the terms "initial protocol" and "final protocol" for the first and third section of the document. The word protocol derives from the Greek *protokollon*, which means "the first to be glued," and refers to the first *plagula* or strip of the papyrus roll. Therefore, Italian diplomatists considered the expression "initial protocol" to be a pleonasm, and the expression "final protocol" to be a contradiction in terms, so they decided to call the first section simply "protocol," and the third, by analogy, "eschatocol," from the Greek *eschatokollon*, meaning "the last to be glued." Pratesi, *Elementi di diplomatica*, p. 63.
- 19 It may be interesting to note that the Italian register, in which the essential data of incoming and outgoing documents are transcribed, is called "protocol." This is probably a consequence of the fact that the data extracted from the documents for registration are those contained in their protocol.
- 20 It is a fact that, over time, all elements connected to context have tended to move into the protocol, and the only elements left in the eschatol are the validation and some final clauses. With the evolution of technology, the validation has sometimes also moved into the protocol, and the subscription in the

- eschatocol appears more a formality than a real attestation; consider, for example, the telegram and the electronic mail. Independently of technology, some documentary forms tend to present an empty or almost empty eschatocol; consider, for example, the memorandum.
- 21 When analysing documents attesting to acts of reciprocal obligation, where each party is both author and addressee, diplomatists adopt the convention that the first party is the author and any other is the addressee. Hence, the name, title and address of the first party constitutes the superscription of every contractual document. See Luciana Duranti, "Diplomatics: New Uses for an Old Science (Part III)," *Archivaria* 30 (Summer 1990), p. 17 (hereinafter cited as: "Diplomatics." Part III).
 - 22 "Lorsque cette partie du texte n'a pas été recopiée sur d'anciens formulaires ou sur des actes antérieurs, ou y reconnaît, mieux que dans aucune autre, la marque d'une époque, des caractères particuliers à certaines catégories d'actes ou à certaines chancelleries, et même l'empreinte de la personnalité de son auteur." Giry, *Manuel*, p. 543.
 - 23 For a discussion of the phases of a procedure, see Duranti, "Diplomatics." Part IV, p. 14.
 - 24 The clauses of warning and the promissory clauses are called by some diplomatists, respectively, negative sanctions and positive sanctions.
 - 25 For a discussion in depth of the final clauses, see Giry, *Manuel*, pp. 553-572, and de Bouïard, *Diplomatique Française*, pp. 277-292.
 - 26 For a discussion of the various signs of validation of a document, see Giry, *Manuel*, pp. 591-621, and de Bouïard, *Diplomatique Française*, pp. 321-333. For the identification of the persons signing a document, see Duranti, "Diplomatics." Part III, pp. 5-12.
 - 27 Hubert Hall, *Studies in English Official Historical Documents*. 1908. Reprint. (New York, 1969), pp. 190-192.
 - 28 In this rigid model, comments referring to single elements of the documentary form under examination or to single components of the diplomatic analysis are offered in footnotes. These are identified by letters if the comments they contain are of a diplomatic nature, and by numbers if the comments are of a historical-juridical nature.
 - 29 Even if the originals of the documents criticized below were available to the author, they would not be to the readers, so it appears to be a useless exercise to comment on something which cannot be seen.
 - 30 The appreciation is defined as a wish or prayer for the realization of the intention of the document. This document presents two appreciations, one of which is expressed at the end of the text in modern style, and the other at the beginning of the eschatocol in the traditional form of invocation. In formal diplomatic criticism, this comment, being of diplomatic nature, would be introduced by a letter. In the present context, this is avoided, so as not to create confusion.
 - 31 The reasoning behind the identification of the persons is illustrated in Duranti, "Diplomatics." Part III, pp. 8-9.
 - 32 For the definitions of *simple act* and *compound act on procedure* see Duranti, "Diplomatics: New Uses for an Old Science (Part II)," *Archivaria* 29 (Winter 1989-90), pp. 13-14. For the definition of *initiative phase* see Duranti, "Diplomatics." Part IV, p. 10 ms. Both the simple act of requesting information and the procedure of providing reference service are juridical acts, because their consequences are taken into consideration by the juridical system in which they take place. If the addressee of the request did not act on it, he would have incurred "neglect of an official duty."
 - 33 The annotations in the document show that it was received by the addressee, registered, classified, and then passed to the competent person for action. The subject of the document is handwritten in Italian, and the author of the document is pointed to by an arrow, probably to emphasize the two elements essential to the accomplishment of the service. This document is a letter because the tenor of the discourse is modelled on the classic *epistola*, presents subjective wording (the author is in the first person), and its addressee is identified. It is public because it participates in a public procedure (the Archivio Centrale dello Stato is a public institution where reference service is mandated by an act of law). It may also be argued that its author is a public entity within the Indian juridical system (see Duranti, "Diplomatics." Part III, pp. 16-18). This document is dispositive because it puts the act of request into existence (of course, it is dispositive only in its original status).
 - 34 When date of receipt is known, it is usually added to the "document area" of the diplomatic description, preceded by the initials a.d. (archival date).
 - 35 This countersignature has the function of attesting the regularity of the procedure of formation and of the forms of the document, while the signature of the writer attests to the fact that the action in the document conforms to the will of the authority.
 - 36 For the definition of *execution phase* see Duranti, "Diplomatics," Part IV, p. 15.

- 37 A *letters patent* is an instrument proceeding from a sovereign authority, and conveying a right, authority or grant to an individual. It is in the form of a letter delivered open, not closed up from inspection like the *letters close*. In fact, the content of a letters patent is meant to be known to all those concerned.
- 38 This term is used by Janet Turner in the comments following her diplomatic analysis of three documents of the United Church of Canada ("Experimenting with New Tools: Special Diplomats and the Study of Authority in the United Church of Canada," *Archivaria* 30 (Summer 1990), p. 99). Turner's article is useful reading for all those interested in the use of diplomatic criticism.