

# *Diplomatics: New Uses for an Old Science*

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Diplomatics is the study of the *Wesen* [being] and *Werden* [becoming] of documentation, the analysis of genesis, inner constitution and transmission of documents, and of their relationship with the facts represented in them and with their creators. Thus, it has for the archivist, beyond an unquestionable practical and technical value, a fundamental formative value, and constitutes a vital prelude to his specific discipline, archival science.<sup>1</sup>

This is the first of a series of six articles which examines diplomatic doctrine from the point of view of the contemporary archivist. The whole work is directed to those who have little familiarity with diplomatics, and is meant to give them the basis for a fruitful consultation of specialized literature. However, it is also directed to those who have known diplomatics in the context of medieval studies and appreciate its potential for the identification, evaluation, control, and communication of archival documents.

This first article defines the science of diplomatics, looks at its origin and historical development, explores its character as it relates to documents, and, while discussing its purposes, analyzes the concepts of authenticity and originality. The five following articles will concentrate on 1) the concepts of fact and act, and the function of a document in relation to facts and acts; 2) the persons concurring in the formation of a document, and its nature in relation to them; 3) the genesis of public and private documents; 4) the intrinsic and extrinsic elements of documentary forms; 5) the methodology of diplomatic criticism, and the use of diplomatic analysis for carrying out individual archival functions.

The approach will be fundamentally theoretical, although an effort will be made to illustrate concepts with examples and to make connections with realities well known to North American archivists. The question which will be present all along in the mind of the readers, "How am I to use all this?," will probably be indirectly answered as the exposition of doctrine proceeds; in any event, it will be directly addressed in the last article.

### Why this Series?

“The most vital question” for contemporary archivists is what constitutes the body of knowledge that belongs to and identifies their profession.<sup>2</sup> While the education of European archivists, although incorporating historical, administrative, and legal elements, is founded on diplomatics and paleography, North American archivists have grounded their work essentially on the knowledge of history and the history of administration.<sup>3</sup> Nevertheless, often without fully realizing it, in a natural way, the latter have paid attention to the object of diplomatics and paleography, namely the forms and script of documents, even if unsystematically and inconsistently, more feeling their way than seeing it. This happened not only because an archives is a whole constituted of parts and it is impossible to understand and control the whole without understanding and controlling its parts, even the most elemental of them, but also because of the historical knowledge of North American archivists. In fact, history, and particularly the history of administration and law, like paleography and archival science, derived as scientific disciplines which use primary sources from diplomatics, and, in the process of becoming autonomous sciences in their own right, used principles and methodologies of diplomatics and paleography and adapted them to their own purposes, incorporating them into their own methods. As a consequence of these developments, diplomatics as an independent science came to restrict its area of enquiry to the chronological limits of the medieval period, joining paleography which was confined within those same limits by the object of its study.

However, the principles, concepts, and methods of diplomatics are universally valid and can bring system and objectivity to archival research into documentary forms, that is, a higher scientific quality. It is well known that the archivist’s research into the nature or character of records has purposes different from that of the historian. Thus it is not advisable for archivists to adopt diplomatic methodology as it has been filtered through the needs of scholars of history. Rather, it is appropriate for them to extract directly from the original science of diplomatics those elements and insights which can be used for their work, and to develop them to meet contemporary needs.

It was in the 1960s that diplomatics and archival science were divorced from an exclusive association with historical sciences. A jurist, Massimo Severo Giannini, in his lectures on administrative law, as recalled by Leopoldo Sandri in 1967, used to teach that “among the non-legal disciplines which study administrative facts, there are some which analyze these facts specifically, because they [the facts] have properties that no other science or discipline has the function or instruments to analyze. The most ancient of these disciplines are accounting, archival science, and diplomatics.” As Sandri himself then put it: “thus, the other face of the moon, that is archival science as the discipline which studies specific facts related to administrative activity, imposes itself on our attention, and the combination, from this point of view, of archival science and diplomatics is not less important to us.”<sup>4</sup> Indeed, it is even more important twenty years after that remark. Nevertheless, the use of diplomatics by contemporary archivists will no doubt face serious difficulties.

It has often been pointed out that it is extremely difficult to comprehend recent events. Part of the reason is undoubtedly that our society creates sources of information which emerge in forms at the same time manifold and fragmentary. We are engulfed and bewildered by it all. Moreover, as Italian archivist Paola Carucci has

noticed, even when it is possible to posit lines of development or critical phases in the documentation function, it is often impossible to verify them for our own time because we lack the proper perspective on events in which we are still involved, and, given the multiplicity and variety of information, the knowledge of a single document is rarely determinant. It is often necessary to assemble a panoply of different sources of information in order to understand any given document, each of which, by itself, may appear of scant utility.<sup>5</sup>

A major problem is created by the fact that the number of actions and events taking place exclusively in a personal sphere is limited. From birth to death, written traces of persons can be found anywhere. A great many bodies produce documentation about the same person or event. This phenomenon has an important impact on the process of identification and selection of the sources which it is appropriate to preserve. The choice is conditioned by the culture and the historical-legal-administrative sensibility of the archivist, but also and foremost by the ways current records are formed and maintained.

Thus, if the knowledge of administrative structures, bureaucratic procedures, documentary processes and forms (that is, of administrative history, law and diplomatics) allows archivists to make a comparative analysis of archival series for selection and acquisition, that same knowledge enables them to participate with competence in the creation, maintenance, and use of current records by giving advice about the determination of document profiles, the simplification of bureaucratic procedures, and the adoption of classification and retrieval systems.

However, the use of diplomatic criticism for records management and appraisal functions particularly requires a development of *special diplomatics*, and here lies the major difficulty that diplomatics encounters in its evolution as a discipline for contemporary records.

Special diplomatics is a branch of diplomatics, a discipline in which “the theoretical principles formulated and analyzed by diplomatics individualize, develop and clarify themselves being applied to single, concrete, real, existent and easily exemplifiable documents, rather than to an abstract and atypical general documentation.” In Georges Tessier’s words: “à côté d’une diplomatique générale ayant pour objet les notions fondamentales et l’exposé de la méthode, on peut concevoir autant de diplomatiques spéciales que de foyers ou de courants de civilisation.”<sup>6</sup> Thus, general diplomatics is a body of concepts. The application of them to infinite individual cases constitutes the function of diplomatic criticism, that is, of special diplomatics. Theory (general diplomatics) and criticism (special diplomatics) influence each other. The latter, analysing specific situations, uses the former; the former guides and controls and is nourished by the latter.

The body of principles and methods as established in the nineteenth century manuals of diplomatics does not need to be reformulated for the criticism of contemporary documents, but merely re-examined and adapted. However, the development of special diplomatics for contemporary documents cannot derive simply from the direct application of that theory to single documents, because of all the problems presented by the plurality and fragmentation of our sources, and because the formalism of old bureaucracies has atrophied in modern ones, creating forms of documents which do not often lend themselves to systematic analysis and description.

It is not accidental that archivists' interest in diplomatics has occurred at the moment of maximum development of records management. This new discipline is very old indeed, as witnessed by the series of little treatises entitled *De Archivis* that appeared during the seventeenth and eighteenth centuries, all full of advice on the creation, arrangement, and description of *current* documents. And we have to remember that formularii and regulations of chanceries had already been in existence for centuries. Only at the time of the French Revolution did archivists move from the management of current records to the care of "historical sources", to which they tried to apply the classification principles learned in administrative offices.<sup>7</sup>

Hence, the development of the two disciplines of records management and diplomatics is inextricably linked. When there are rules governing the genesis, forms, routing, and classification of documents, special diplomatics can identify the rules through the criticism of documents. On the basis of those rules, it can establish the value of the examined documents. Thus, the expansion of records management feeds special diplomatics. However, the opposite is also true. Where there are not records management rules in place, the study of diplomatic principles and methods gives to those who try to formulate them a clear indication of the elements which are significant and must be developed, while the examination of various special diplomatics of past administrations in different societies gives them the critical judgement deriving from comparative study.

The reciprocal influence of records management and diplomatics can indicate the road to take in the future, but how can we develop a special diplomatics for the documentation created in the period between the French Revolution and our days, part of which documentation we still have to appraise, arrange, and describe? The application of diplomatic criticism to the records of the last two centuries requires a specific study of the records-keeping practices of each single administration, which is more than and somehow different from administrative history.

The study, through the examination of laws, regulations, and archival documents, of the way records creators organized their memory is in Italy the specific function of a discipline called "special archival science," being the application of archival theory to individual cases. Between archival science and special archival science there is the same relationship that links diplomatics and special diplomatics. Thus, archival science is the doctrine, while special archival science is the criticism, which, directed and controlled by the doctrine, represents the reaction of scientific minds coming into contact with series and fonds. Moreover, special archival science, compared to administrative history, has a profound juridical nature, being largely the history of the law and of its application in administrative activities, based on the analysis of the product of those activities, the archives. Where, then, is the difference between special archival science and special diplomatics? The boundary line between the two disciplines is to be found in the series, the fonds, the archives as a *complex* of documents, as a whole, which constitutes the area of archival science. Instead, the single document, the elemental archival unit, is the area of diplomatics.

The historical-administrative-legal-archival study conducted on the creators of documents is thus essential to the development of a special diplomatics of the documents of past societies. However, it is not less important for the diplomatic criticism of documents of present and future societies. Actually, its relevance is enhanced

by the proliferation of laws and of administrative bodies and by the continuous change of structures and functions. But such study is easier to carry out because of the growing uniformity of those laws, regulations, structures, and of the ways activities are carried out, because of the standardization promoted by records management, which is vital to an elephantine bureaucracy, and because freedom of information, underlining the accountability of administrative bodies and the citizens' right to control their activities, favours a better organization and determines the spreading of the knowledge of our social system, knowledge which is losing its elitist character.

To say that special archival science or, if you want, history of administration and its documentation and history of the law, constitutes the necessary mediation between diplomatic theory and its application to concrete, real cases does not mean that a full development of those studies must precede the exercise of diplomatic criticism of the documents of a specific body or person. Rather, it means that whoever undertakes such an analysis in order to understand diplomatically those documents needs to investigate the meaning of their forms not only in the individual context of the creator but in the broader context constituted by the legal doctrine of the creator's society and its manifestation in the documentation function of that society. For instance, only in that broader context is it possible to grasp the real meaning of documents' names and so their nature. Consider that, today, types of documents are defined sometimes in relation to the legal nature of the action giving origin to them (sentences, permits, concessions, and contracts) and sometimes in relation to their form (letters, minutes, notes, and indentures). The study of the relationship between the nature of the action generating a document and the form of the document is one specific object of diplomatics, but it is only a tile in a very complex mosaic, which has to be reconstructed with the assistance of allied disciplines.

The history of administration and of its documentation function and the history of the law and of its manifestations, which I call special archival science, archival science, and general and special diplomatics together constitute a constellation of disciplines each of which increases the light provided by the others. The use of diplomatic criticism can give a substantial and unique contribution to the management of current and semicurrent records and to the identification, appraisal, arrangement, description, and communication of inactive ones, both public and private, but such a contribution would not be possible without the auxilium of those other disciplines which constitute the body of proper knowledge of the archivist. Thus, when an archivist studies records, whatever discipline he decides to use or whatever the specific object he chooses to investigate, his study will always have an historical-administrative-legal-diplomatic character, that is, his study will have an archival nature.

Many North American archivists are conscious of all this and have called for research into the subject.<sup>8</sup> This series of articles attempts to answer that call. However, the virtual non-existence of literature on diplomatic theory as it applies to modern and contemporary documents makes of this re-examination and adaptation of principles, concepts, and methods little more than a tentative exploration of new ground, aimed mainly to stimulate reactions, further thinking, and research.

### The Word Diplomatics

In many libraries, diplomatic literature is incorrectly classified under either diplomacy or paleography, *not* under diplomatics. There are etymological-historical reasons for the confusion of diplomatics with diplomacy, and there are scientific reasons for its confusion with paleography.

Both the words diplomacy and diplomatics have their root in the Greek verb *diploō* (διπλωω), meaning 'I double' or 'I fold', which gave birth to the word *diploma* (διπλωμα), meaning 'doubled' or 'folded.' In classic antiquity, the word *diploma* referred to documents written on two tablets attached with a hinge and called *diptych*; and, during the Roman Imperial period, to specific types of documents issued by the Emperor or the Senate, such as the decrees conferring privileges of citizenship and marriage on soldiers who had served their time. In time, *diploma* came to mean a deed issued by a sovereign authority, and was extended to include generally all documents issued in solemn form.

The term diplomatics is a modern adaptation of the Latin *res diplomatica*, the expression used by the first writer on the subject to refer to the critical analysis of the forms of diplomas. The term diplomacy, from the French *diplomatie*, refers to the art of conducting international negotiations, which result in the compilation and exchange of official documents, namely diplomas.

The confusion between diplomatics and paleography is not of a terminological nature, but is deeply rooted in the history of the two disciplines and in the philosophical conceptions of the eighteenth century.

### The Origin and Development of the Discipline

Diplomatics and paleography were born as sciences arising from the need to analyze critically documents considered to be forgeries.<sup>9</sup> The problem of distinguishing genuine documents from forgeries was present in the earliest periods of documentation, but until the sixth century no attempt was made to devise criteria for the identification of forgeries. Even legislators did not demonstrate interest in the issue, basically because of the legal principle commonly accepted in the ancient world that authenticity is not an intrinsic character of documents but is accorded to them by the fact of their preservation in a designated place, a temple, public office, treasury, or archives. This principle was open to abuse. Eventually, people began to present forgeries to designated records offices to lend them authenticity. Therefore, practical rules to recognize them were introduced in Justinian's civil code (*Corpus iuris civilis*) and later in a number of Papal *Decretales*. These rules referred only to the external forms of documents created by imperial and papal chanceries, that is, to documents contemporary to the laws, not documents of previous centuries which were often used by authorities to support political or religious claims.

In time, largely as a result of controversies over the authenticity of these very political or religious claims, humanist scholars began to apply to documentary texts a sophisticated criticism based on historical methodology. Using this type of systematic analysis, the Italian Renaissance humanists Francesco Petrarca and Lorenzo Valla in the fourteenth and fifteenth centuries respectively, proved that the privileges granted to Austria by Caesar Augustus and Nero in the first century and the donation made by Constantine to Pope Silvester in the fourth century were forgeries.

The transformation of the critical analysis of the document into a complete and autonomous discipline was determined by the so-called 'diplomatic wars' (*bella diplomatica*), which took place in the seventeenth century and concentrated attention on specific groups of documents. In Germany, the diplomatic wars were judicial controversies over the affirmation of a right, while in France they assumed a doctrinal character with a serious scientific concern: they prepared the ground for the great debate between the Benedictines of the Congregation of Saint-Maur in France and the scientific society founded in Antwerp by the Jesuit Jean Bolland.

In 1643, the Bollandists began to publish the first volumes of a colossal work, the *Acta Sanctorum*, in which the testimonies related to the lives of single saints were evaluated for the purpose of separating the facts from the legend. Its second tome appeared in 1675 with an introduction written by Daniel Van Papenbroeck, in which the general principles for establishing the authenticity of old parchments were rigorously enunciated. However, applying those principles to the diplomas of the Frankish kings, Papenbroeck erroneously declared a diploma of Dagobert I to be a forgery and in doing so brought into discredit all the Merovingian diplomas, most of which were preserved in the Benedictine Monastery of Saint-Denis. Dom Jean Mabillon, Benedictine of the Congregation of Saint-Maur, who had been called from the Monastery of Saint-Denis to the Abbey of Saint-Germain-des-Prés to publish the lives of Benedictine saints, answered the accusation of Papenbroeck six years later, in 1681, in a six-part treatise, *De Re Diplomatica Libri VI*, which established the fundamental rules of textual criticism.<sup>10</sup>

The publication of Mabillon's work marks the birth date of diplomatics and paleography. Mabillon subdivided a group of about two hundred documents into broad categories and examined all the different aspects which could be analysed: material, ink, language, script, punctuation, abbreviations, formulas, subscriptions, seals, special signs, chancery notes, and so on. If five parts of the treatise contain mainly diplomatic criticism, one entire part is dedicated to the analysis of the script and can be considered the first treatise on paleography. However, the science which studies ancient scripts did not yet have a name; the term paleography was coined by another Benedictine, Dom Bernardo de Montfauçon, who published *Palaeographia graeca, sive de ortu et progressu literarum* in 1708, but the systematic study of types of script was initiated by Mabillon.

If the impetus for articulation of a method of proving the authenticity of documents came from doctrinal conflicts of the Reformation and Counter-Reformation, that is, from a practical need, the development of the discipline so created soon rose above the religious fray. As long as documents were considered exclusively as legal weapons for political and religious controversies or in disputes before the courts, the methodology of textual criticism was utilitarian in nature, and was therefore looked upon as being suspect; but when scholars began to look at documents as historical evidence, diplomatics and paleography acquired a scientific and objective character. However, given the encyclopedic conception of knowledge that dominated the eighteenth century, they remained confused as one discipline for a long time.

In the middle of the century, the teaching of diplomatics and consequently of paleography was introduced in university faculties of law, and this led to the publication of numerous works on the subject in Germany, France, England, Spain, and

Italy. The works conceived in academic schools tended to present an excess of schematization that reached its apex in the attempt of Johann Christoph Gatterer, professor at the University of Gottingen, to introduce to diplomatics a version of the classification system adopted by Linnaeus in the natural sciences.<sup>11</sup>

Notwithstanding the fervour of study in the universities, once again the greatest progress was made by two Benedictine fathers of the Congregation of Saint-Maur, Rene Prosper Tassin and Charles Toustain, who published in Paris, between 1750 and 1765, the six-volume *Nouveau traité de diplomatique*. The authors investigated many documents going back to the first centuries of the Middle Ages and having their origin beyond the boundaries of France. In so doing, they also entered the field of special diplomatics. Their critical history of documentary styles, formulas, and uses, and the principles of methodology they introduced, are still valid today.

The *Nouveau traité* was translated into German during its compilation.<sup>12</sup> This peculiar phenomenon demonstrates not only “la solidarité internationale dans le domaine de la culture au XVIII<sup>e</sup> siècle,”<sup>13</sup> but also the scientific validity of diplomatic principles and methodology for the criticism of all documents independently of time and place of creation.

The nineteenth century saw the creation of the “École des Chartes” in Paris in 1821, the consequent development of paleography into an autonomous discipline,<sup>14</sup> and decisive progress in the formulation and definition of diplomatic principles. However, the greatest advances took place in Germany and Austria where the flowering of historical studies was more significant than in France. In 1831, the publication by Johan Friedrich Bohmer of a complete chronological catalogue of the documents issued by the Emperors of the Holy Roman Empire, with indication of their content and of their diplomatic character, initiated a period of feverish description of medieval documents and a remarkable proliferation of studies of special diplomatics.<sup>15</sup>

Furthermore, the bringing together in published volumes of documents created by the same office and preserved by the various addressees opened new types of enquiries and spawned sophisticated comparative analysis. Thus, Julius Ficker, noticing inconsistencies between the date of some documents and the place where they were issued, could posit the conceptual distinction between the moment of the juridical act and the moment of its documentation; and Theodor von Sickel, comparing the documents issued by the same chancery, was able to define a rigorous method that, together with the one conceived by Ficker, based evaluation of a document on analysis of the process of its creation.<sup>16</sup>

The advances made by Ficker and von Sickel were an outcome of post-romantic German historicism and determined a methodology of documentary criticism and a body of principles which subsequent studies would confirm and perfect without introducing any major conceptual innovation.<sup>17</sup>

### **The Object of Diplomatics**

What, then, is diplomatics? Peter Herde writes that it is “the study of documents.”<sup>18</sup> This definition is quite general, but has the merit of moving attention from the discipline itself to its object, the document.



What is a *document*? The term traditionally refers to a multiplicity of sources of evidence. Thus, we need to specify that diplomatics studies *the written document*, that is, evidence which is produced on a medium (paper, magnetic tape, disc, plate, etc.) by means of a writing instrument (pen, pencil, typing machine, printer, etc.) or of an apparatus for fixing data, images and/or voices. The attribute “written” is not used in diplomatics in its meaning of an act *per se* (drawn, scored, traced, or inscribed), but rather in the meaning that refers to the purpose and intellectual result of the action of writing; that is, to the expression of ideas in a form which is both objectified (documentary) and syntactic (governed by rules of arrangement).

Any written document in the diplomatic sense contains information transmitted or described by means of rules of representation, which are themselves evidence of the intent to convey information: formulas, bureaucratic or literary style, specialized language, interview technique, and so on. These rules, which we call *form*, reflect political, legal, administrative, and economic structures, culture, habits, myths, and constitute an integral part of the written document, because they formulate or condition the ideas or facts which we take to be the content of the documents. The form of a document is of course both physical and intellectual. An analogy with architecture may help clarify this vital concept. We recognize a church as such because it has a shape or physical form exhibiting certain conventional elements or features such as a bell-tower, but we identify and understand the full meaning of a particular church, its cultural context, from the way those conventional elements are expressed in its architectural design, that is, from its intellectual form. Of course, a church might not present any conventional feature and still be a church because of its content. For instance, the Sacrament might simply be on a makeshift altar in a warehouse, because public worship is forbidden. The full meaning of “church” can be captured only by reflecting on both the physical building and the arrangement of its content. Like a building, a document has an external makeup which is its physical form, an internal articulation which is its intellectual form, and a message to transmit which is its content. It is impossible to understand the message fully without understanding the makeup and articulation which the author chose to express it.

The form of a written document is, therefore, the whole of its characteristics which can be separated from the determination of the particular subjects, persons or places it is about; it is “la seule à rendre raison de la véritable nature des actes écrits.”<sup>19</sup>

However, the object of diplomatics is not any written document it studies, but only the *archival document*, that is a document created or received by a physical or juridical person in the course of a practical activity.<sup>20</sup> It is true that the principles and methods of diplomatic analysis can be extended to documents expressing feelings and thoughts and created by individuals in their most private capacity. In fact social habits and routines tend to penetrate all aspects of human life, so that love letters or diaries are likely to be very similar in their physical and intellectual form to executive letters, or ship’s logs. But the inner freedom of human beings is such that a strict observance of rules cannot be expected in a personal context, so that a diplomatic study of forms may reveal little about the real nature of, for instance, an amateur photograph or a mother’s message. Consequently, we will explore diplomatic theory only as it applies to documents which result from a practical adminis-

trative activity, be it public or private, that is, to documents archival as to the circumstances of their creation. This analysis can, of course, be used for a better understanding of documents of differing nature.

If we carefully analyze a written archival document, we discover that there is much more to it than a *medium*, a *form*, and a *content*. The circumstance of the writing implies the presence either of a *fact* and a *will* to manifest it or of a will to give origin to a fact.<sup>21</sup> It also indicates a *purpose*. In fact, the existence of something written, directly or potentially, determines *consequences*, that is, it can create, preserve, modify, or extinguish situations. Furthermore, the document by means of which a fact and a will determine consequences is the result of a procedure, of a process of creation, a *genetic process*, that will be reflected in the documentary form, becoming one of the constituent elements of the written archival document.

Therefore, examining a document critically, diplomatics studies the fact and will originating it as they relate to purpose and consequence, the development of its genetic process, and the character of its physical and intellectual form. The study of the content of the document is extraneous to diplomatics because it is the authenticity, validity, authority, and full meaning of the content that diplomatics strives to ascertain by looking at various elements of the document.

In a society governed in all its aspects by law (be it natural, customary, common or statutory), any fact represented in an archival document is related or referable to law, and is defined as being either juridically relevant or juridically irrelevant.<sup>22</sup> Diplomatics has traditionally been applied to documents which contain facts juridically relevant. Thus, Von Sickinge defined the document-object of diplomatics as “the written evidence, compiled according to a determined form — that is variable depending on place, period, person, transaction — of facts having a juridical nature.”<sup>23</sup> The same definition, with minor variations, is given by Harry Bresslau, Alain de Boüard, and Artur Giry.<sup>24</sup> The most precise definition of a document is provided by Cesare Paoli, and reads: “a document is the written evidence of a fact having a juridical nature, compiled in compliance with determined forms, which are meant to provide it with full faith and credit.”<sup>25</sup>

The three fundamental requisites of the document for diplomatic study, that is, the circumstance of the writing, the juridical nature of the fact communicated, and the form of the compilation, were identified in the criticism of medieval documents. Carucci points out that they are also valid for the diplomatics of modern and contemporary documents. We can assume that Paoli's definition encompasses also preparatory or interlocutory writings, those somehow connected to the final and formal one which represents a manifestation of will aimed at a juridical consequence.<sup>26</sup> Some time ago, Georges Tessier suggested the same thing in his definition of diplomatics: “elle est la connaissance raisonnée des règles de forme qui s'appliquent aux actes écrits et aux *documents assimilés*.”<sup>27</sup> It is evident that Tessier wishes to broaden the area of diplomatics to all those documents which are administratively created by eliminating the juridical nature of the fact communicated from the requisites of the document for diplomatic study. In fact, we can also use the instruments provided by diplomatic theory to analyze documents containing facts juridically irrelevant as long as they are created according to a procedure, routine, or habit, and in the context of a practical activity. And at this point we are already

answering the question that opened this section: what is *diplomatism*? Carucci writes: "Diplomatics is the discipline which studies the single document or, if we want, the elemental archival unit (document, but also file, register), analyzing its formal aspects in order to define its juridical nature, with regard to both its formation and its effect."<sup>28</sup> This definition, though accurate and appropriate, imposes on diplomatic analysis the same limits that we are trying to remove, in contrast with the statements made by the author throughout her book about the broadness of the object and multiplicity of purposes of the diplomatic criticism. Thus, the best definition of diplomatics is still the one provided by Cencetti and quoted at the beginning of this article, a definition which may be simplified and clarified as follows: *diplomatism is the discipline which studies the genesis, forms, and transmission of archival documents, and their relationship with the facts represented in them and with their creator, in order to identify, evaluate, and communicate their true nature.* The first part of this definition has been already illustrated. It is now necessary to analyze the second part of it, that is, to examine the purposes of diplomatic criticism.

### **The Purposes of Diplomatism**

The origin of diplomatics is strictly linked to the need to determine the authenticity of documents, for the ultimate purpose of ascertaining the reality of rights or truthfulness of facts represented in them.

*Diplomatic authenticity* does not coincide with *legal authenticity*, even if they both can lead to an attribution of *historical authenticity* in a judicial dispute.

Legally authentic documents are those which bear witness on their own because of the intervention, during or after their creation, of a representative of a public authority guaranteeing their genuineness.<sup>29</sup> Diplomatically authentic documents are those which were written according to the practice of the time and place indicated in the text, and signed with the name(s) of the person(s) competent to create them. Historically authentic documents are those which attest to events that actually took place or to information that is true. The three types of authenticity are totally independent of one another. Thus, a document not attested by a public authority may be diplomatically and historically authentic, but is always legally inauthentic. A Papal brief which does not contain the expression "datum ... sub anulo piscatoris" may be legally and historically authentic, but it is diplomatically inauthentic. A certificate issued by a public authority in respect of bureaucratic rules but containing information that does not correspond to reality is legally and diplomatically authentic, but historically false. Why historically false, not inauthentic? To explain, it is first necessary to illustrate the difference between an *authentic* and a *genuine* document.

A document is "authentic" when it presents all the elements which are designed to provide it with authenticity. A document is "genuine" when it is truly what it purports to be. Thus, a sentence is legally authentic when signed by a magistrate, and it is also genuine if the signature is not counterfeit. Accordingly, a privilege which purports to have been issued by an imperial chancery is diplomatically authentic when all of its forms correspond perfectly to those prescribed by the chancery regulations, and it is also genuine if it has actually been issued by that chancery.

However, the distinction between authenticity and genuineness is not valid in a historical sense. In fact, law and diplomatics separately evaluate the forms of docu-

ments and the authors of them so that we can have an authentic document which is not genuine or vice versa.<sup>30</sup> In contrast, history evaluates only the content of the document, so that, historically, authentic is synonymous with genuine.

Even more subtle is the distinction in the uses of the antonyms of authentic and genuine, that is *inauthentic* and *false*. The concept of inauthenticity refers to the *absence* of the requisites which provide authenticity. The concept of falsity refers to the *presence* of elements which do not correspond to reality. Those elements can be either intentionally or negligently untrue, or untrue by mistake or accident when reasonable care has been exercised.

Now, according to the argument presented above, the concept of inauthenticity can be used only in a legal or diplomatic sense, not in an historical sense. In fact, the absence of required information in the content of a document cannot compromise its historical authenticity-genuineness. Thus, a private contract that is not corroborated by a public official (the term includes notaries and lawyers) is legally inauthentic, and a letter of appointment that does not contain the conditions of appointment is diplomatically inauthentic, but a form incompletely filled out or not signed as required remains historically authentic-genuine if its content is truthful.

The concept of falsity, although valid in a legal, diplomatic, and historical sense, in each of them refers to different elements of the document. This concept is perhaps best illustrated through the example of a type of medieval forgery. In those times, documents were often destroyed by fire or lost during invasions and wars, and the rights and deeds attested in them, in the absence of any other proof, were considered non-existent. So the owners of the destroyed documents used to compile new documents containing the same information as the original ones. Any one of the documents so created is legally false because the signature and the seal are counterfeit, proving that the purported author did not sign that specific document; and diplomatically false because some formal elements imperfectly reproduce the practice of the time, or place, proving that the specific document was not compiled when or where it purports to have been issued; but it is historically authentic-genuine because the information the document contains is true. By analogy, a modern birth certificate accidentally bearing an incorrect date of birth is legally and diplomatically genuine, but historically false. Even if the circumstance of the historical falsity of the date of birth leads of annulment of the certificate, that does not change the fact that it was legally genuine when created.

Thus, legally and diplomatically, to say that a document is false is the equivalent of saying that it is forged, counterfeit, or somehow tampered with at some time; historically, it is the equivalent of saying that the facts described in the document are untrue.

In common language, the term authentic is often confused with the term *original*, and legal terminology favours such confusion. In fact, in law, an *authenticum* is defined as "an original instrument or writing; the original of a will or other instrument, as distinguished from a copy."<sup>31</sup>

Because a primary function of diplomatic criticism is to distinguish an original document from a draft and a copy for the purpose of determining the degree of authority of the document under examination, and general diplomatics describes

and defines the different stages of a document's transmission,<sup>32</sup> it is opportune to examine the meaning of original as opposed to draft or copy, in both the legal and diplomatic sense.

English law defines an original document as "the first copy or archetype; that from which another instrument is transcribed, copied or imitated."<sup>33</sup> This definition could also probably apply to a first draft (it being "the first copy") or to a final draft (it being the "archetype"). In fact, the definition of *draft* as offered by the same dictionary reads: "A tentative, provisional, or preparatory writing out of any document ... for purposes of discussion and correction, which is afterwards to be copied out in its final shape."<sup>34</sup> In contrast, French jurists consider an original to be an "écrit constatant un acte juridique et revêtu de la signature de la ou des parties ou de leur représentant, par opposition à la copie qui en est la reproduction."<sup>35</sup> The French definition is as restrictive as the English one is general. In fact, most ancient documents and many modern informal documents (for example, interdepartmental memoranda) are not signed by their authors.

Diplomatics examines the concept of originality and points out the common denominators of all originals, independently of time and place of creation. The first element of originality is that indicated by the English legal definition, which derives from its etymology: the latin word *originalis* means 'primitive', first in order. The second necessary element is an element of perfection. To be original a document must be *perfect*, a term which both legally and diplomatically means complete, finished, without defect, and enforceable. A perfect document is a document that is able to produce the consequences wanted by its author, and perfection is conferred on a document by its form. With regard to its essential elements, an original is defined by Tessier as "l'exemplaire à la fois originel et parfait d'un acte quelconque."<sup>36</sup> We could also say that *an original is a perfect document and the first to be issued in that particular form by its creator.*

Of course, there may be more than one original of the same document created either at the same time or at subsequent times. This happens in cases where there are reciprocal obligations (contracts between two or more parties, treaties, conventions), or where there are many addressees (circulars, invitations, notices, memoranda), or where there are security needs (dispersal of vital records), and so on. However, we face many originals of the same document only when those originals are completely identical, as in the cases mentioned above. But, if we have a number of originals which are identical for all but the name of the addressee included in the text (think of the use of guide letters), we have as many different original documents as there are addressees. Equally, if two originals of the same document addressed to the same person have a different date, they are in fact two different original documents. However, if two originals of the same document, addressed to the same person and having the same date, are sent to that person in two subsequent deliveries, the oldest document is considered to be the original, the second is qualified as *a copy in the form of original*. An example may be provided by a person asking his employer for an attestation of the kind introduced by the words "to whom it may concern." The employer sends it, but, after a while, he is asked by the same person for a second identical attestation. He copies the first and signs it, producing something that is legally as perfect and enforceable as an original but lacks the quality of primitiveness that only the first attestation has.

The documents produced by computers and/or word processors might be considered a special case. Is the original the magnetic coding of the floppy disk or the printout? According to diplomatic principles, it can be either of them. If the machine-readable record, in that form, besides being the first to be produced is also complete, finished, without defect, and able to produce the consequences wanted by its author, it is the original and the printout is a copy. Otherwise, and this is particularly true for legal records which are not enforceable in machine-readable form, the printout is the original and the machine-readable record is the final draft. In practice, with computer records, as well as with all other kinds of records, one has to decide case by case which one is the original.

Further, in establishing the status of a document, that is whether it is a draft, an original, or a copy, the medium may be a consideration if it influences the enforceability of the document. Thus, in the case of photographs, the negative exists prior to the print but lacks perfection (completeness and enforceability) while the first print made from the negative is the first perfect document, that is, the original. If there are many first prints, we face the case of many originals of the same document. If many prints from the same negative or from the first print are made in subsequent times and distributed in subsequent deliveries, the first is original, the others are copies in the form of original. The same argument is valid for lithographic stones and intaglio plates which are the final draft while the numbered prints made from them are all originals. In fact, when we say "an original engraving", we refer to the print, not the stone or copperplate. Unfortunately, in common language we often use the word original to mean genuine, or first, or unique, so that we even say "an original draft" or "original sketch of a drawing." However, if all the author wants to produce is a sketch and he considers it perfect as to his intentions, it is proper to call it original. Diplomatically, this would appear to be a contradiction, but it is not, because original is used in the diplomatic sense while sketch is the technical term identifying the document artistically.

If the first perfect document is an original, what is a draft? In diplomatics, *the draft of a document is a sketch or outline of the definitive text*. It is prepared for purposes of correction and is meant to be provisional. Be it a first rough draft or a final draft ready for transcription in what will constitute the original document, it represents the creative moment in the documentation process and, because of this, has the greatest importance not only for a diplomatic understanding of that process, but also for the historical interpretation of the fact and will determining the creation of the document. However, a draft has no legal validity on its own, although such validity can be enforced by a judge in a judicial dispute, when the original either is not available or was never created and the draft is proved to be diplomatically genuine. In fact, on the basis of a certified diplomatic genuineness, a judge can declare a draft to be an authenticum, which legally means original (as defined by English law), and he can infer the existence of historical authenticity until evidence to the contrary is produced.

If the document is not an original or a draft, it is a *copy*. A copy is defined in law in rather general terms: "The transcript or double of an original writing."<sup>37</sup> Diplomats makes distinctions among various types of copies. The *copy in the form of original* has already been mentioned. Then, we may have an *imitative copy* which reproduces, completely or partially, not only the content but also the forms,

including the external ones (layout, script, special signs, medium and so on), of the original: a modern example is the photocopy. The probative or evidentiary value of an imitative copy is close to that of the original itself, but it does not confer on the copy legal validity in court. Normally, an imitative copy is not created to deceive, to be considered the original which it reproduces. For this reason, it always includes elements that make the real nature of the document recognizable.

Where there is a fraudulent intention in the creation of a copy, it is a *pseudo-original*, in which the maker of the copy tries to imitate perfectly the original in order to deceive. Think of a person who copies an invitation to an event to which he was not invited in order to attend it. Legally and diplomatically, a pseudo-original is false and very often it is also historically false. In the example provided, the document on its own (without its envelope) is historically genuine (the event took place when and where indicated and invitations were sent out in that form), but it is historically false in its context because the owner was not invited. However, it would also be historically genuine in its context if the owner had been invited, had lost the original invitation, and so made a copy.

A *simple copy* is constituted by the mere transcription of the content of the original, prepared by whomever, and cannot have legal effects. This is the most common type of copy and is usually compiled as an aid to memory.

Finally, we have the *authentic copy*, which is a copy certified by officials authorized to execute such a function, so as to render it legally admissible in evidence. Also included in this category are the “inserts” (or insets), that is, the documents entirely quoted (if textual) or reported (if visual, like maps) in subsequent original documents in order to renew their effects, or because they constitute precedents of the legal act attested in the subsequent originals. A perfect form of insert is that called *vidimus*.<sup>38</sup> An authentic copy in general, and a *vidimus* in particular, only guarantees the conformity of the copy to the original text. Thus, an authentic copy in the diplomatic sense is also an authentic copy in the legal sense but neither in diplomatics nor in law is it an authentic document. The authentication provides the copy with the validity and the effects of the original, not with its forms, and it does not influence diplomatic, legal, or historical genuineness.<sup>39</sup> Accordingly, if the original was inauthentic or false in whatever sense, the copy would remain authentic, being an *authenticated copy* of an inauthentic or false document.<sup>40</sup>

Often we have many copies made either from the same original or from copies of the same original. Now, the purpose of diplomatic analysis of copies is to establish not only the time and context in which each copy was made, but also the relationships among copies of the same original. In fact, the most recent copy is not always transcribed from the one that chronologically precedes it. Some later copies may be apographs (direct transcripts) of the original and have thus more value for diplomatic and historical study than previous ones which were derived from copies of the original.

I will not illustrate the methodology involved in the identification of the sequence of copies of the same document, because, as it stands now, it is only applicable to documents produced in the medieval period. A new methodology for modern and contemporary material has not been developed yet. It would be useful to investigate the feasibility of this kind of study and its relevance in the light of the

development of new legal concepts, the evolution of documentation technology, and the changes in objectives of scholarly research, all factors which suggest that the identification of the genealogy of copies of the same document would be extremely difficult and probably a sterile exercise for modern and contemporary material. But this has to be proved. What is certain is that, in the past, such an exercise contributed significantly to the establishment of the relative value of documentary sources for historical interpretation and their weight in judicial disputes. This specific function of diplomatics was part of the broader purpose I mentioned at the beginning of this section: to determine the reliability of documentary sources.

Thus, the original purpose of documentary criticism was to ascertain the historical authenticity of documents through the determination of their diplomatic authenticity (at the time referring to genuineness), with the tacit assumption that the two things automatically coincide. Such an assumption had some foundation in the seventeenth century, because the documents taken into consideration were only the solemn diplomas supposed to have been issued by royal and papal chanceries, and there was little chance that those chanceries would provide false information in that form. In time, with the broadening of the diplomatic area of enquiry to all archival documents, the coincidence of these two types of authenticity could not be assumed anymore.

Notwithstanding the noble reasons which determined the development of diplomatic criticism, and the scientific rigour of its methodology, "il n'en reste pas moins que l'enjeu de l'expertise reste la victoire ou la défaite d'une des parties en cause," as Tessier put it.<sup>41</sup> Thus, until the eighteenth century, the purpose of diplomatic analysis was eminently practical and the advantages mainly political and economic.

It is said, or at least assumed, that, when archival documents started to be considered as historical evidence and historians began to exploit them through the use of diplomatic criticism, the original purpose of diplomatics was lost. This is not entirely true. After all, Tassin and Toustain wrote their monumental *Traité* to support one of the parties in a controversy about the documents of the abbey of Saint-Ouen de Rouen, and, until the invention of modern techniques for establishing the genuineness of a document (for example, the use of chemistry), evidence was evaluated before the courts on the basis of diplomatic criticism.

It is also said that, given the evolution of the legal system, which determined the admissibility in court of types of evidence other than documentary, the establishment of diplomatic genuineness has little relevance for contemporary documents. This judgement is also too hasty. Consider the case of machine-readable records. For instance, corporations can often produce only computer printouts as evidence in litigation. Their genuineness has to be proved and, for this purpose, foundation evidence including documentation of all the stages of a system must also be produced. Such foundation evidence has to be supported by the testimony of an expert witness vouching for the normal operation of the system or its security and authenticating the printouts created by the system. The analysis given by a witness on the operations of a computerized system is a diplomatic examination. If the witness can demonstrate that the printout has been regularly produced in a secure system, he can declare that it is diplomatically genuine and can authenticate it, that is, give it authority and legal authenticity. The historical genuineness of the printout is then



inferred by the judge until there is evidence to the contrary. The same analysis could be performed by a government archivist providing inactive machine-readable records to a judge, when he would also have to document the procedures carried out during the processing and reference stages.<sup>42</sup> Thus, there is a continuing need for critical analysis of the genesis and forms of documents for the purposes of their admissibility as proof. Moreover, as public officials who are professionally knowledgeable of the nature of records, archivists still have an important role to play in guaranteeing authenticity of documents, and may see that role grow in significance as they acquire machine-readable records. While notaries and lawyers base their corroboration on their witnessing the formation of the document and their knowledge of the authors, the archivist bases his *a posteriori* legal authentication on the examination of the forms and study of genesis of the document. In fact, in cases like that described above, diplomatic authenticity deduced from the forms of the document does not provide any reasonable expectation of diplomatic genuineness. The latter can be only ascertained through the analysis of the formation of the document.<sup>43</sup>

Thus, notwithstanding the technical problems presented by some contemporary documents, the different structure of their text and the specific procedures governing their creation, maintenance, and use, the basic diplomatic principles and methodology formulated for the evaluation of medieval diplomas are still valid today, and not only for the authentication function.

As I mentioned in the historical overview of the development of the discipline, in the nineteenth century diplomatics entered the category of historical sciences, because of the use made of it by romantic historicism. However, it occupied quite a minor position. As Count Simeon, French Minister of the Interior, put it in a report to the king in 1821 about the opportunity of creating the *École des Chartes*, "L'homme instruit dans la science de nos chartes et de nos manuscrits est, sans doute, bien inférieur à l'historien, mais il marche à ses côtés, il lui sert d'intermédiaire avec les temps anciens et il met à sa disposition les matériaux échappés à la ruine des siècles." Moreover, in 1900, in the opening lecture to the course of diplomatics at l'École des Chartes, Maurice Prou could say: "Le but des érudits français a été moins de disserter sur les règles de chancellerie et de faire de la pure diplomatique que de publier et d'utiliser les documents d'archives, en d'autre termes de donner à la pratique le pas sur la doctrine."<sup>44</sup>

Von Sickel is often mistakenly given responsibility for calling diplomatics an "auxiliary science of history." In fact, all he did was to introduce the teaching of diplomatics and paleography into the Austrian Institute for Historical Research founded in Vienna in 1854. Because the Institute had the function of promoting the study of the auxiliary sciences of history, for more than a century diplomatics lamentably came to be associated almost solely with the publication of documents of approved authenticity. Even today, most diplomatists define diplomatics as "the science which critically studies the document *in order to determine its value as an historical source*, that is, they identify the primary purposes of diplomatic criticism as historical in nature."<sup>45</sup>

The use of diplomatic criticism for the interpretation of historical sources is invaluable to the historian, because the examination of documentary processes and forms (which constitute the practical application of laws, regulations, and uses only

partially revealed by published official sources) allows a regular verification of the discrepancies between law and actual procedure, of the continuous mediation taking place between legal-administrative apparatus and society, and of the real value of societal rules. However, if diplomatics is undeniably useful to historians of any branch of human knowledge, it is essential to archivists, who may receive from a systematic application of diplomatic methods specific benefits to their work of identification, appraisal, arrangement, and description of documents.<sup>46</sup>

Diplomatics was born as a body of practical precepts, and developed as a discipline in the realm of historical studies. Once it became an historical science, it abandoned the broad area of enquiry and validity it had evinced at its origin in the seventeenth century, and transformed itself into a strictly medievalist science. However, as a consequence of the broadening of the field of archival science to include the control of active and semiactive records and the function of appraisal, archivists have rediscovered the importance of the critical study of the document and turned to diplomatics to test the validity of its principles and methods for modern and contemporary documents. The first result of this careful and laborious research is that the boundaries of diplomatics have met those of archival science, both in terms of time and place to which they are applied and in terms of methodology. Can we then talk of three diplomatics, the legal, the historical, and the archival discipline? I think not.<sup>47</sup> There is only one diplomatics which, when used for the purposes of another discipline, becomes one with it, just as does a metal in a metallic alloy.

### Notes

- 1 Giorgio Cencetti, "La Preparazione dell'Archivista," in *Antologia di Scritti Archivistici*, ed. Romualdo Giuffrida (Roma: Ministero per i beni culturali e ambientali. Pubblicazioni degli Archivi di Stato, 1985), p. 285. All translations from the Italian are by the present writer.
- 2 Terry Eastwood, "Nurturing Archival Education in the University," *The American Archivist* 51 (Summer 1988), p. 229.
- 3 Luciana Duranti, "Education and the Role of the Archivist in Italy," *ibid.*, pp. 346-355. This issue of *The American Archivist* is entirely dedicated to archival education, and shows the basic differences in approach between Europe and North America.
- 4 Leopoldo Sandri, "L'Archivistica," in *Antologia di Scritti Archivistici*, p. 21.
- 5 Paola Carucci, *Il Documento Contemporaneo. Diplomatica e Criteri di Edizione*. (Roma: La Nuova Italia Scientifica, 1987), p. 11.
- 6 Cencetti, "La Preparazione dell'Archivista," 286; Georges Tessier, "Diplomatique," in *L'Histoire et ses méthodes*, ed. Charles Samaran (Paris: Librairie Gallimard, 1961), p. 668.
- 7 Luciana Duranti, "The Importance of Records Managers to Society," *Vanarma*, 18 (March and April 1988); "The Odyssey of Records Managers," *Records Management Quarterly* (1989), in press.
- 8 Hugh Taylor, "Transformation in the Archives: Technological Adjustment or Paradigm Shift?," *Archivaria* 25 (Winter 1987-88), p. 18; Barbara Craig, "Meeting the Future by Returning to the Past: A Commentary on Hugh Taylor's Transformations," *ibid.*, p. 9. In this regard, an interesting article is David Bearman and Peter Sigmond, "Explorations of Form of Material Authority Files by Dutch Archivists," *The American Archivist* 50 (Spring 1987), pp. 249-253.
- 9 For the history of diplomatics I have relied in particular on Tessier, "Diplomatique," pp. 633-676; Alessandro Pratesi, *Elementi di Diplomatica Generale* (Bari: Adriatica Editrice, n.d.), pp. 9-19; Giulio Battelli, *Lezioni di Paleografia* (Città del Vaticano: Pont. Scuola Vaticana di Paleografia e Diplomatica, 1949), pp. 11-24.; Francesco Calasso, *Medio Evo del Diritto. I — Le Fonti* (Milan: Giuffrè, 1954), pp. 57-95 and pp. 301-408.

- 10 Daniel Van Papenbroeck, *Acta Sanctorum Aprilis* (Antwerp, 1675). The *Acta Sanctorum Quotquot Toto Orbe Coluntur* presently includes 67 volumes, the first 50 published in Antwerp, 1 in Tongerlo, and the others in Brussels. It is still being added to. Two other publications of this work have been initiated in Venice and in Paris. Dom Jean Mabillon, *De Re Diplomatica libri VI...* (Paris, 1681); *Librorum de Re Diplomatica Supplementum* (Paris, 1704); *De Re Diplomatica libri VI...*, editio secunda ab ipso auctore recognita, emendata et aucta (Paris, 1709); *De Re Diplomatica Libri VI...*, tertia atque nova editio ..., 2 vols., (Naples, 1789).
- 11 Johan Christoph Gatterer, *Elementa artis diplomaticae universalis* (Göttingen, 1765). Between Mabillon's and Gatterer's, other works of some importance are: Dom Giovanni Perez, *Dissertationes ecclesiasticae de re diplomatica* (n.p. [Spain], 1688); Thomas Madox, *Formulare Anglicanum* (London, 1702); Scipione Maffei, *Istoria diplomatica che serve d'introduzione all' arte critica in tal materia* (Mantua, 1727); Dom Johan Georg Bessel, *Chronicon Gotwicense* (Gottweig, 1932), which, examining the characteristics of Imperial and Royal German documents, offered the first example of *special diplomatics*.
- 12 Christoph Adelung and Adolph Rudolph, *Neues Lehrgebäude der Diplomatie*, 9 vols. (Erfurt, 1759-69).
- 13 Tessier, "Diplomatique," p. 645.
- 14 The first autonomous work of paleography after Montfaucon's was Natalis de Wailly, *Éléments de paléographie pour servir à l'étude des documents inédits sur l'histoire de France*, 2 vols. (Paris, 1838).
- 15 Johan Friedrich Böhmer, *Regesta chronologico-diplomatica regum atque imperatorum romanorum...* (n.p., 1831). The most important publication that followed Böhmer's was Philippe Jaffé, *Regesta pontificum Romanorum ab condita Ecclesia ad annum post Christum natum 1198* (n.p., 1851; the second edition, amplified by W. Wattenbach, et al., was published in Berlin between 1885 and 1888).
- 16 Julius Ficker, *Beiträge zur Urkundenlehre* 2 vols. (Innsbruck, 1877-1878); Theodor von Sickel, "Beiträge zur Diplomatik" I-VIII, in *Sitzungsberichte der Kaiserlichen Akademie der Wissenschaften* (Vienna, 1861-1882). In the same period, the methodology of juridical studies was for the first time applied together with that of diplomatics to the critical analysis of private documents by Heinrich Brunner, *Zur Rechtsgeschichte der römischen und germanischen Urkunde* (Berlin, 1880). It might be noted that modern archival science is an outgrowth of these sorts of diplomatic and juridical studies.
- 17 Some important manuals appeared at the turn of the century. Among them, the most relevant are Harry Bresslau, *Handbuch der Urkundenlehre für Deutschland und Italien* 2 vols. (vol. 1: Berlin, 1889; vol. 2: Leipzig, 1912-1931); Artur Giry, *Manuel de diplomatique* (Paris, 1893); Cesare Paoli, *Programma scolastico di paleografia latina e di diplomatica* (Firenze, 1888-1890). For the twentieth century, it is opportune to mention the two volumes by Alain de Boüard, *Diplomatique générale* (Paris, 1929), and *L'Acte privé* (Paris, 1949), and the short manual by Georges Tessier, *La Diplomatie* (Paris, 1952). The absence of manuals in English is indeed noticeable. In fact, English diplomatists were much more interested in the application of diplomatic methodology to specific documentary bodies than in the development of theoretical studies. As a consequence, there is a significant literature on special diplomatics produced in England. A good bibliography of diplomatics writings between 1912 and 1971 can be found in *The New Encyclopaedia Britannica* 15th ed., s.v. "diplomatics", p. 813.
- 18 *Ibid.*, p. 807.
- 19 Tessier, "Diplomatique," p. 667.
- 20 For the purposes of this study, the term "juridical person" is used in the sense of an entity having the capacity or the potential to act legally and constituted either by a collection or succession of physical persons or a collection of properties. Examples of juridical persons are states, agencies, corporations, associations, committees, partnerships, ethnic and religious groups, positions to which individuals are nominated, appointed or hired (the National Archivist, the Professor of Diplomatics at ..., the conservator of the Museum of ...), character groups (women, fathers, children, deceased persons), the estates of bankrupt or deceased persons, counties, and so on. In France and in Quebec, the term equivalent to juridical person is *personne morale* or *juridique*. In England, the United States, and English-speaking Canada, there is a legal distinction between "natural" and "artificial" persons which is close to the distinction between physical and juridical persons, but the jurists in those countries do not agree on a definition of the two terms. Moreover, diplomatics has developed in France, Germany, Spain, and Italy, that is, in countries where the concept of juridical, as opposed to physical, person is deep-rooted in the minds of all citizens, and diplomatic doctrine is built on it. Thus, the traditional terminology of diplomatics is maintained in this study.

- 21 In diplomatics, "fact" is not to be confused with "content", the latter being the manifestation of the former through writing. The term "content" includes the idea of representation, communication.
- 22 The term "juridical" is broader than the term "legal". It refers to the nature of abstract legal concepts. Thus, a "juridical transaction" is a transaction legally supposed or conceived of, to some extent irrespective of its actual existence, even if it contemplates incidents and circumstances not recognized by the law.
- 23 Von Sickel, *Acta Regum et Imperatorum Carolinorum* (Vienna, 1867), I, p. 1.
- 24 Bresslau, *Handbuch der Urkundenlehre*, I, p. 1; de Bouard, *Manuel de diplomatique*, I: 32ff; Giry, *Manuel de diplomatique*, p. 4.
- 25 Cesare Paoli, *Diplomatica*, 2nd ed., (Firenze: Sansoni, 1942), p. 18. Those forms are often used automatically and without awareness of their real function: thus, we autograph a typed letter often only because we consider it uncourteous to type our name.
- 26 Carucci, *Il Documento Contemporaneo*, p. 28.
- 27 Tessier, "Diplomatique," p. 667. My emphasis.
- 28 Carucci, *Il Documento Contemporaneo*, p. 27.
- 29 In law, "authentic" is defined as "duly vested with all necessary formalities and legally attested." An authentic document is called by the law "authentic act" and is defined as "an act which has been executed before a notary or public officer authorized to execute such functions, or which is testified by a public seal, or has been rendered public by the authority of a competent magistrate, or which is certified as being a copy of a public register." *Black's Law Dictionary*, Revised IVth ed., s.v. "authentic" and "authentic act", p. 168.
- 30 Traditional diplomatic theory considers diplomatic authenticity and diplomatic genuineness to be synonyms. In fact, that theory was formulated for the criticism of medieval diplomas, which had such a complex genetic process and presented such a number of formal elements introduced in them with the expressed purpose of guaranteeing genuineness that *de facto* diplomatic authenticity and genuineness coincided. However, the idea of a difference between the two, although not clearly expressed, was there, because traditional diplomatics did distinguish between a genuine document in which some forms required for authenticity were missing, and a false document presenting all of those forms, even if it ended up declaring the former authentic and the latter pseudo-original, where "pseudo" conveyed the concept of diplomatic (not yet proved historical) falsity. Nevertheless, a diplomatics which has broadened its area of enquiry to all archival documents of all times needs to specify the difference between authentic and genuine, and consequently between their opposites, because modern and contemporary documentary processes and forms are much simplified and more flexible, and the presence in modern and contemporary documents of all the forms which usually identify an authentic document does not give any guarantee of genuineness.
- 31 *Black's Law Dictionary*, s.v. "authenticum", p. 168.
- 32 The terms "transmission" and "tradition" are used as synonyms with reference to documents to mean both their genetic process and the ways they are handed down to future generations, that is, their status.
- 33 *Black's Law Dictionary*, s.v. "original", p. 1251.
- 34 *Ibid.*, s.v. "draft", p. 582.
- 35 Tessier, *La Diplomatique*, p. 17.
- 36 *Ibid.*, p. 18.
- 37 *Black's Law Dictionary*, s.v. "copy", p. 405.
- 38 We have a *vidimus* when a public authority, ecclesiastic or lay, issues an "authentic act" which contains an unabridged transcription of a previous act, taking care to announce the insertion through a formula that indicates the beginning and the end of the transcription. Thus, the transcribed act is neatly individualized in the body of the new act. There are different forms of *vidimus*. Sometimes the author declares to have seen the document he transcribes, describes some of its formal characters, and affirms that it does not have any element that can diminish its legal value. At other times, a *vidimus* is a simple transcription followed by confirmation of the dispositions contained in it, the application of them to the specific case, and the addition of a new clause. Cf. Tessier, *La Diplomatique*, pp. 21-22. In English-speaking countries the formula *inspeximus* is often used in place of *vidimus*, particularly in letters patent. Cf. *Black's Law Dictionary*, s.v. "inspeximus", p. 939.
- 39 The *vidimus*, although part of an authentic act, does not acquire the legal nature of that act. In fact, the public official who corroborates the new act can do so because of his physical participation in its composition. The document transcribed preserves the legal nature it had at its origin: if it was an authentic act, its transcription will be an authentic copy of an authentic act.

- 40 Among the various types of copies are registers in which documents are reported in *extenso*. Tessier defines a register as "un livre manuscrit dans lequel une personne physique ou morale transcrit ou fait transcrire les actes qu'elle expédie, qu'elle reçoit ou qui lui sont communiqués au fur et à mesure de leur expédition, de leur réception ou de leur communication." Tessier, *La Diplomatique*, p. 23.
- 41 Tessier, "Diplomatique," pp. 637-8.
- 42 For these reflections I am indebted to Catherine Bailey, "Archival Theory and Machine Readable Records: Some Problems and Issues" (Master of Archival Studies thesis, The University of British Columbia, 1988), pp. 119-120.
- 43 This point is clearly made by Hugh Taylor in "My very act and deed": Some Reflections on the Role of Textual Records in the Conduct of Affairs," *The American Archivist* 51 (Fall 1989), in press.
- 44 Quoted in Tessier, "Diplomatique," pp. 648-9.
- 45 Pratesi, *Elementi di Diplomatica Generale*, p. 5. My emphasis. The author specifies that diplomacy offers a vital contribution to history in the broadest sense, political, social, economical, administrative, linguistic, etc., through its enquiry into the administrative and legal systems in which the documents are created, and its analyses of the representation rules used. Tessier also points out that diplomacy is not a descriptive science: "Un relevé pur et simple des caractères formels et de leur variations au cours des âges ne suffirait pas. Il faut expliquer la présence des uns et l'apparition des autres en les replaçant dans leur contexte historique, juridique, social, économique, en démontrant le mécanisme de l'élaboration des actes, en scrutant l'organisation et le fonctionnement des chancelleries, le statut du personnel notarial auquel les particuliers se sont adressés ..., interroger les rédacteurs sur les moyens qu'ils ont utilisés pour exercer correctement leur métier ...", in "Diplomatique," p. 667. And Edward M. Thompson wrote: "The field covered by the study of diplomacy is so extensive and the different kinds of documents which it takes into its purview are so numerous and various..." *Encyclopaedia Britannica*, 11th ed., s.v. "diplomatic", p. 301.
- 46 Cencetti wrote that "diplomacy is necessary to the archivist" because it "penetrates the documentary essence and the historical formation of the papers, and determines that intimate understanding of them which is a necessary condition of their arrangement and description." Cencetti, "La Preparazione dell'Archivista," p. 285.
- 47 Such an idea would perpetuate the concept of "auxiliary science," while it is generally agreed that all disciplines have equal scientific dignity, beyond hierarchies of importance which may be identified, that there is reciprocal trespassing among specific areas of different disciplines, and that the methods of one discipline can be used for the purposes of many others.