

Diplomatics: Modern Archival Method or Medieval Artifact

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Abstract

This case study applies the principles of General Diplomatics and the analysis of Special Diplomatics to modern documents at the Massachusetts Institute of Technology Special Collections and University Archives and the University of Massachusetts Archives. The information obtained from the application of diplomatics was then compared to information gleaned from administrative sources, such as procedural manuals, to determine if diplomatics revealed sufficient new information about the files to justify such a detailed analysis of records. This case study revealed that the use of Special Diplomatics is not justified, but that the principles of General Diplomatics could be very useful to the modern archivist.

Introduction

In 1989 Luciana Duranti, an archivist and archival educator at the University of British Columbia, began publishing a series of articles which advocated the rediscovery of "General Diplomatics," an archival method used by European archivists to study medieval documents. The six articles titled, "Diplomatics: New Uses for an Old Science," explored diplomatic theory and the application of general diplomatics to specific cases, called "Special Diplomatics." Duranti advocated the use of diplomatics to analyze modern archival collections in North America, where many archivists have either never heard of diplomatics or have no experience in its application. Diplomatics would be a radically new way for North American archivists to examine their collections, and Duranti's advocacy of special diplomatics must be carefully considered. Case studies conducted on records at the Massachusetts Institute of Technology (MIT) Archives and Special Collections and at the Archives of the University of Massachusetts, Boston, revealed that the application of special diplomatics to record series does not provide enough new information about the records to justify the expenditure of time required by that method. However, the concepts of general diplomatics could be very useful to archivists in defining terms and determining the legal status of records.

General Diplomatics

The distinction between general and special diplomatics must be clear in order to understand the results of the case studies. General diplomatics is the theoretical framework for the study of "the genesis, forms, and transmission of archival documents and their relationship with the facts represented in them and with their creator."¹ Diplomats studies the facts and will that originated the document, relating them to the purpose and consequences of the act and the document, the genesis of the document, and the character of its physical and intellectual form.² General diplomatics standardizes the definition of certain key archival terms, such as "public" and "private." By providing a general framework in which archivists can consider documents, it could help to standardize the information which is collected to appraise, arrange, and describe series and collections.

The archivist will find general diplomatics helpful in examining how and why a series was created. Identifying what part a specific type of file or a series of files plays in a procedure is important in appraising, arranging, and describing that series. While a file may play only a minor role in a greater procedure involving many different departments within an organization, the importance of the file in supporting the function of the organization is a factor in appraising it. We cannot accurately describe a file if we do not understand how it contributes to the department which created it or the organization of which that department is a part. Diplomats provides a method to standardize the way in which we describe the functioning of one series in the procedures by which an organization conducts its business.

General diplomatics contributes much to archival practice by consistently identifying the persons who contribute to creating files or series. Not only is it important to know where the files were stored and who was using them just before accessioning, but it is also important to know who created them and that person's role in the organization's hierarchy. Archivists have long considered the hierarchical role of document creators in arranging and describing their files. A description of a series should always take into account the function of the documents contained in the files which make up the series and the juridical role of the person who created them. Basic knowledge of what elements of form should be included in a document and how they reflect the hierarchical position of the creator could also help identify the provenance of the documents where it is not identified in any other way.

The ability to consistently identify copies of documents is another important contribution of general diplomatics. We need to know if a document

¹ Lewis J. and Lynn Lady Bellardo, *A Glossary for Archivists, Manuscript Curators, and Records Managers* (Chicago: Society of American Archivists, 1992), 11.

² Luciana Duranti, "Diplomatics: New Uses for an Old Science," (Part I) *Archivaria* 28 (Summer 1989): 16.

is a copy, if so what type of copy it is, and its value as legal evidence. Standardizing the definitions of copies and their function as legal evidence based on those standard definitions could help eliminate much of the confusion over questions of admissible evidence. Standard definitions could help to standardize laws regarding copies of documents as legal evidence.

Special Diplomatics

Special diplomatics applies the basic concepts of general diplomatics to specific documents in order to reveal their genetic process, their creators, the facts they record, and the way in which their form reflects their function and the activities of their creators. To reveal these aspects of documents, the way in which the contents are organized and presented (the form of documents) is studied.³

Form, as defined by diplomatics, is: “the complex of the rules of representation used to convey a message . . . the characteristics of a document which can be separated from the determination of the particular subjects, persons, or places which it concerns.”⁴

These rules of representation include formulaic language, bureaucratic or literary style, and specialized language. The rules reflect political, legal, administrative, and economic structures, culture, habits, and myths, and they are an integral part of the written document.⁵ Documentary form embraces the relevant elements in the creation of the document: the juridical system, the act which generated the document, the persons who participated in the act and in the creation of the document, and the procedures followed to achieve the purpose of the act. Documentary form shows the relationships between those elements.⁶ The form of the document is determined by all of these factors together, and the form reflects them and their interaction.

The analysis of form required by special diplomatics is very detailed and is conducted document by document. The meticulousness of the method has not recommended it to archivists who are custodians of modern documents. North American archivists do not examine modern documents individually, arguing that there are too many documents produced daily to analyze every one. Advocates of the diplomatic method respond that diplomatics can im-

³ Luciana Duranti, “Diplomatics: New Uses for an Old Science (Part IV),” *Archivaria* 31 (Winter 1990–1991): 14.

⁴ Luciana Duranti, “Diplomatics: New Uses for an Old Science (Part V),” *Archivaria* 32 (Summer 1991): 6.

⁵ Duranti, “Diplomatics,” Part I, 15.

⁶ Duranti, “Diplomatics,” Part IV, 10.

prove our understanding of records and records creators, and that this improved understanding justifies the additional work required by diplomatics.⁷

The detail required by diplomatics is the result of its original purpose. Diplomats was developed by Dom Jean Mabillon in the late-seventeenth century as a method to disprove allegations that certain documents held in repositories operated by the monasteries were fakes. Mabillon developed diplomatics as a systematic method to examine documents in order to authenticate them. He analyzed handwriting, language, punctuation, formulaic expressions, signatures, seals, and materials, comparing them to the external environment and taking into account the place and date of the documents' creation.⁸

Case Studies

Duranti argues that the major benefit of using diplomatics is that it reveals the actual procedures used by institutions to conduct business. She believes that the administrative sources consulted by North American archivists to understand the files they appraise, arrange, and describe are inadequate in identifying what procedures are represented in a file and how the acts resulting from these procedures affect the business of the organization.⁹ The following case studies identify certain specific procedures documented in two collections and compare the administrative information sources that instructed the creators of the documents on how to carry out their business, with the information revealed about these procedures by diplomatics. This comparison provides a sound basis on which to evaluate the usefulness of diplomatics.

Janet Turner conducted a similar case study on documents of the United Church of Canada to study the benefits of special diplomatics while she was a student of Duranti's at the University of British Columbia. She analyzed records documenting the process of "calling" a minister and was able to reconstruct the procedure using only diplomatic analysis. This case study would seem to justify the use of diplomatics to understand the way in which organizations conduct business. However, it does not prove that diplomatics reveals more about the structure of authority in the United Church of Canada than a study of the laws governing the church or its history would reveal. She did not conduct such a study comparing the two methods, and so the results were inconclusive.¹⁰

⁷ Duranti, "Diplomatics," Part I, 11.

⁸ Don C. Skemer, "Diplomatics and Archives," *American Archivist* 52 (Summer 1989): 378.

⁹ Duranti, "Diplomatics," Part IV, 22.

¹⁰ Janet Turner, "Experimenting with New Tools: Special Diplomats and the Study of Authority in the United Church of Canada," *Archivaria* 30 (Summer 1990): 91-103.

Applying the Diplomatic Method

The case studies were conducted on records from the Thompson's Island Boys Schools, now held by the archives of the University of Massachusetts at Boston, and on patent prosecution files from the Patent, Copyright, and Licensing Office of the Massachusetts Institute of Technology (MIT), now held by the MIT Archives. The method outlined by Duranti in the fifth article in her series on diplomatics was used for the document-by-document analysis of surrenders, indentures, and student files from Thompson's Island, and two patent prosecution files from MIT. This analysis will determine if special diplomatics reveals new information contained in the form of these documents that could not be learned from administrative sources and which would change the way in which these documents would be appraised, arranged and described. Based upon these case studies, it is possible to make a recommendation on the usefulness of diplomatics with regard to modern records.

The case studies were an application of the diplomatic method of analyzing the form of documents which participated in certain procedures. The form of a document is both intellectual and physical. The external, extrinsic, or physical elements of form¹¹ are those which make the document perfect and capable of accomplishing its purpose. Extrinsic elements can be examined without reading the document. They are integrally present only in the original, and include the medium, script, language, special signs, seals, and annotations. These elements are actually the proper object of study of paleography, but diplomatics considers them because they can reveal information about administrative processes and activities. The internal, intrinsic, or intellectual elements make the document complete.

The intrinsic elements are the integral components of the form's intellectual articulation, the way in which the content is presented. Elements of the intellectual form gather in three groups: the protocol, text, and eschatocol, in that order. In diplomatics, each of these conceptual sections is further divided into subsections. In the following discussion, the subsections are listed in the order in which they are most likely to appear in a document. However, the analysis of many documents has revealed this order to be extremely flexible, especially in modern documents. Only items which were found in the documents used in the case study were included; those which were archaic and found only in medieval documents or other specific juridical contexts, such as religious institutions, have been excluded.

Protocol: The protocol contains the administrative context: an indication of the persons involved, the time and place in which the document was created, and the subject of the document and the initial formulae. The protocol comprises the entitling, date, superscription, inscription, subject, and saluta-

¹¹ The reference for the discussion of extrinsic and intrinsic form is Duranti, "Diplomatics," Part V, 6-16.

tion. The entitling in modern terms is the letterhead, containing the name, title, capacity, and address of the person who issued the document. The "date" refers to both the chronological date and the topical date or place where the document was issued. In contractual documents, the superscription is the mention of the first party by name. The inscription in an epistolary or letter form is the name, title, and address of the addressee. In a contractual document, it is the mention by name of any party but the first party. The subject of the document is often preceded in modern documents by the indicator, "in reference to" or "Re:". The salutation appears in epistolary documents as a greeting, "Dear [Addressee]."

Text: The text is where we find the manifestation of the will of the author, the evidence of the act, or the memory of it, and the considerations related to the accomplishment of the purpose of the act. It comprises the preamble, notification, exposition, disposition, and final clauses. The preamble contains the ideal motivation for the action, the ethical or juridical principle; it is not necessarily directly linked to the subject. In modern documents this section contains a citation of the laws or regulations which pertain to the document or mandate its creation. The notification expresses that the act has been communicated to interested parties and that they must be aware of the dispositive content. It usually begins with the phrase, "be it known" or "know you." The exposition is the narration of the concrete and immediate circumstances generating the act and/or the document. In contemporary documents it often begins with "whereas." The disposition is the heart of the text. It contains the expression of will or judgment of the author and communicates the nature of the action and the function of the document. The final clauses are formulaic phrases which ensure the execution of the act, guarantee its validity, protect against violation of the act, preserve the rights of third parties, and indicate the means by which the document has probative value. These include: clauses of injunction, which express the obligation of concerned parties to conform to the will of the authority which issued the document; clauses of prohibition, which express the prohibition to violate or oppose the enactment; and clauses of corroboration, which enunciate the means used to validate the document and guarantee its authenticity. Often the clause of corroboration is included in the eschatocol. Examples are "Signed and sealed" and "Witness my hand and seal."

Eschatocol: The eschatocol contains the elements which authenticate the document: the means of its validation, an indication of responsibilities for documentation, and the final formulae. The eschatocol often begins with the clause of corroboration, and also includes the topical and chronological date, attestation, qualification of the signer(s), and secretarial notes. The attestation is the substance and core of the eschatocol; it is the means used to validate a document. It usually takes the form of the signature of those who

took part in issuing the document: the author, writer, and countersigner. However, for some documents such as account books, journals, and invoices, the process of creation itself validates them. When the attestation takes the form of signatures, it is usually accompanied by a qualification of the signers which is the mention of the title and official or juridical capacity of the signer. Secretarial notes are the last intrinsic element of documentary form. They are the initials of the typist, mention of enclosures, and an indication that other persons have received copies of the document.

Identifying various aspects of the form of documents is only part of the process of documentary criticism or special diplomatics. Diplomatic criticism proceeds from the specific to the general characteristics of a document. The remaining characteristics of a document are those which are revealed perhaps in the document's form or content but are not necessarily specific parts of either. They may be revealed in the form or the content, and they include the persons who concurred in the creation of the document, the qualification of the signatures on a document, the type of act which generated the document, the name of the act, the relationship between the document and the procedure, the type of document, and the diplomatic description of the document.

Persons who participate in the creation of a document could include the author of the act, the author of the document, the addressee of the act, the addressee of the document, the writer, the countersigner, and the witnesses. Diplomats identifies these persons to determine the provenance of documents, to study patterns of authority in document creation and transactions, and to determine the public or private nature of documents. The persons involved may be revealed by mention of their names in the form or by their signatures.¹²

The qualification of signatures identified here is different from the qualification which is an intrinsic part of documentary form. Signatures may not always be qualified in the form of a document, but persons who concur in the formation of a document must be in some way qualified to sign. The mother of a boy at the Boston Academy for Indigent Boys who signs a "Surrender" giving up custody of her son is qualified by her juridical role as his mother, but she does not qualify her signature as "mother of John Doe."

The type of act could be simple, contractual, collective, complex, or procedural. The type of act is determined by the number of parties involved in producing the final document, their wills and motivations, and the number of acts involved in producing the final act. The name of an act is the name given to it by the juridical system, for example: sale, authorization, or request.¹³

¹² Luciana Duranti, "Diplomatics: New Uses for an Old Science (Part III)," *Archivaria* 30 (Summer 1990): 5–9.

¹³ Luciana Duranti, "Diplomatics: New Uses for an Old Science (Part II)," *Archivaria* 29 (Winter 1989–1990): 13–15.

The relationship between the document and the procedure is the 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. One of the most important goals of *diplomats* described by Duranti is to help the archivist or records manager identify the procedures used in an office to carry out the function of that office. In part, *diplomats* accomplishes this task by identifying this relationship and identifying other documents, possibly in other record groups, which participate in the same transaction.¹⁴

The type of document is described by the name, nature, function, and status of the document. The name of the document, like the name of the act, is determined by the juridical system in which the document is created; for example, letter, indenture, and contract. The nature of the document refers to whether the document is public or private, and is determined by the person creating the document, the juridical content, and the forms of the document. The function of the document is dispositive, probative, supporting, or narrative, and may, depending on its uses, be a combination of these. *Diplomatics* describes the status of transmission of a document as original, draft, or copy.¹⁵

The diplomatic description of a document is a description of the context in which the document was created, the action from which the document resulted, the persons involved, and the form name, nature, function, status, medium, and quantity of the document. The context in which the document was created includes the year, month, and day it was created, and the place in which it was created. The place might include the country, state or province, or the institution and office within that institution in which it was created. All of these points are important factors in both diplomatic and nondiplomatic description of archives. Both methods agree that an understanding of the context of a document is important in understanding its content and function. The place and time in which a document was created will influence its juridical nature, its content, and its extrinsic and intrinsic form.¹⁶

In conducting the following case studies, all of the elements of form were identified for each document generated by a procedure. After the extrinsic and intrinsic elements were identified, the role of the document in the procedure and the role of the persons involved were analyzed and all the documents related to each other to follow the procedure from its initiation to its completion, or execution. Because of the length of the analysis, only

¹⁴ Duranti, “*Diplomatics*,” Part IV, 14–15.

¹⁵ Duranti, “*Diplomatics*,” Part V, 17.

¹⁶ Duranti, “*Diplomatics*,” Part V, 17.

one example of a diplomatic analysis of Indenture Agreements for Thompson's Island is included.

Thompson's Island Boys School

The purpose of this case study was to determine if special diplomatics can reveal more about procedures used to conduct business and therefore help archivists understand more fully the records in their custody. The first task in analyzing the records of Thompson's Island was to choose some basic procedures and identify and analyze records which supported and documented those procedures. The records chosen for analysis are those which document the process of admitting boys into the schools or asylums on Thompson's Island and those which document the process of discharging them.

In order to fully understand the meaning and function of the documents which were analyzed, we must first understand the context in which they were created. The charitable institution known as the Thompson's Island Boys School (alternately named the Boston Asylum for Indigent Boys [BAIB], 1814–1835; the Boston Farm School Society [BFSS], 1832–1835; the Boston Asylum and Farm School [BFS], 1835–1907; and the Farm and Trades School [FTS], 1907–1955), was opened in the early nineteenth century in an effort to keep indigent young boys off the streets of Boston and out of trouble. It evolved into a school where boys actually learned the skills they would need to become productive members of society when its patrons realized that the boys would need to fend for themselves after they left.

There are a few basic series of records which are identifiable as documenting the admission and discharge procedures. The most obvious documents from the years of the BAIB and the BFS are known generally as "surrenders" and "indentures." However, diplomatic analysis of documents in a folder labeled "Incoming Correspondence Re. Students, 1823–1833" revealed some additional supporting documents. There is also a file containing applications for admissions from 1835–1837. Beginning late in the period of the BFS, the school began a system of individual student case files. Documents in these were also analyzed to determine which ones pertained to the admissions and discharge procedures. No documents from the BFSS on these procedures were available to be analyzed.

Diplomatic Analysis of an Indenture Agreement

Indenture agreements from 1819–1878 use the same form. In intrinsic form, the indenture agreements from 1818 (when the series begins) are also

the same, but they are handwritten. After 1819 the indentures are preprinted forms with the information specific to each case written in by hand. Their language is formal and legalistic. The seals found next to the signature of the representative of the school are no longer recognizable. Annotations on either the front or back of the form include the birth date of the boy, his name, and the name of the man to whom he was indentured. In some cases, further actions taken on the indenture are described in annotations. If the indenture has been canceled, for example, that fact is mentioned, often with some explanation of the circumstances and who instigated the change or the cancellation of the agreement.

The protocol contains the entitling, date, superscription, and inscription. This document is titled, "This Indenture of two parts." The superscription is preprinted and reads, "the Boston Asylum for Indigent Boys of the first part," (or the Boston Asylum and Farm School for Indigent Boys). Beginning in 1836, the party of the first part changes to the Boston Asylum and Farm School for Indigent Boys as result of the merger of the BAIB and the BFSS, which took place in 1835. The rest of the form remains the same, intrinsically and extrinsically. The inscription contains the name of "the party of the other part" (the person to whom the boy is being indentured), along with the county and state of residence.

The text contains the notification, "witnesseth;" the preamble; disposition; and final clauses. The preamble declares that the indenture takes place, "by virtue of the authority given by the act incorporating the said Society, and under the provisions and restrictions in the said act contained." The disposition is composed of two paragraphs. The first states that the institution places and binds out the student to Mr. X "to learn the art, trade, and mystery of" the trade of a farmer (for example). This first paragraph also states the time limit on the indenture which lasts until the minor student reaches the age of twenty-one. In the second paragraph, the tradesman agrees to instruct the minor in his trade and in "reading, writing, arithmetic, and in Christian morals and religion," and to provide food and lodging for the boy and two suits of clothing on the expiration of the indenture. Later indentures add a provision that the tradesman will give the student one hundred dollars upon the expiration of the indenture. The final clauses describe the consequences if the tradesman should die before the end of the term or violate any of the conditions of the indenture.

The eschatocol contains the clause of corroboration, attestation of the parties and witnesses, and qualification of signatures. The indentures have been countersigned on the back of the form. In this document, the clause of corroboration states, "In testimony whereof, John Smith, President of the Boston Asylum for Indigent Boys, has hereto set his hand and affixed the common seal of the said corporation and, the said (tradesman), has hereto

set his hand and seal, the day and year aforesaid.” The four countersigners are Managers of the BAIB; an indenture requires the signatures of at least four managers. The boy who is indentured does not sign the indenture.

The author of the act and the document is the person who signs on behalf of the school, usually the president. The addressees of the act and the document are the indentured student and the tradesman to whom he is indentured. The writer is the secretary of the school.

The act is contractual, and its name is “indenture.” This document represents the execution phase of the indenture procedure which begins with an application. The document’s function is dispositive; it puts the contract into existence.

Additional documents which participate in the procedure resulting in an indenture include documents such as petitions and applications which initiate the procedure.¹⁷ Documents which attest to the good character and industrious habits of applicants are part of the inquiry phase of the procedure.

The background information which exists for Thompson’s Island is contained in the original laws which established the BAIB and allowed its merger with the BFSS; the creation of bylaws and rules and regulations which governed the BAIB; and the drafting of bylaws for the new BFS. There is no new contextual information for the FTS, which was governed by the same rules as the previous institutions, but simply had a new name. A pamphlet published by the Board of Trustees provides information on the history of the schools, but it does not provide information on how the schools accomplished the tasks of admitting and discharging the boys.

The “Act of Incorporation” of the BAIB gives the asylum the legal right to accept the surrender of boys by their parents and the legal right “to bind (them) out in suitable families, to reputable trades or occupations, or to educate (them) in any manner deemed suitable” until the age of twenty-one years. There were to be nine managers, two of whom were to be monthly managers on a rotating basis. These two managers had the responsibility of evaluating the circumstances of boys who wanted admission. They were also responsible for inquiries into the character and circumstances of persons who applied to remove the boys from the school. It was the responsibility of the secretary to record all applications, which took the form of a letter addressed to the school containing information on the birth date, age, and residence of the boy applying. Any action taken on either admitting or indenturing a boy had to have the approval of a majority of the Board of Managers.¹⁸

¹⁷ “BAIB Board of Managers Incoming Correspondence re. Students, 1823–1833,” Thompson’s Island Box 72.

¹⁸ “Act of Incorporation,” Commonwealth of Massachusetts, 1814. Thompson’s Island Box 70.

The act which incorporated the BAIB and the BFSS included the provision that “no boy shall be admitted who, from his character or other cause, is likely to interfere with the improvement of the pupils in the Institution, or otherwise injuriously affect them.”¹⁹ This clause establishes the responsibility of the school to investigate the character of the boys.

These bylaws would provide the archivist with information to determine the role which these documents played in administration of the Thompson’s Island schools. Diplomatic examination of these documents has made the picture more complete than that which is described in the bylaws and legislation which governed the schools. In the bylaws we learn that an application had to be provided in writing, and that the boy had to be of good character. However, there is no indication of how the school would determine that the boy was of good character. Diplomatic examination of records revealed the supporting documentation which was collected to help make a determination on the suitability of the boys. In addition, no mention is made in the bylaws of a formal application for indentures, but by diplomatic examination, we learn that as early as 1831, a formal application was indeed required. There are not many of these applications still existing, and they were not identified in the filing system of the school by a folder label or in the folder list of the archives which serves as a finding aid. In the same way, the bylaws mandate that the persons to whom boys are indentured must be of good character. Again the supporting documentation is found by diplomatic analysis of the contents of a folder of correspondence. Diplomats reveals these steps in the indenture procedure.

Because case files were not kept for each boy, and supporting information was alienated from the final dispositive record which documents the act in which it played a role, diplomatics certainly helps map the surrender and indenture procedures for the early records of Thompson’s Island. The diplomatic examination of the file of administrative correspondence might lead the archivist to arrange and describe the material differently. It would be more precise to remove correspondence which related to the surrenders and label it as such, and to do the same for the information on applying for indentures.

For the series of files labeled “Surrenders” or “Indentures,” diplomatics does not change the way in which they should be arranged. There is not enough supporting information to justify reuniting the final document with supporting records. In a description of indentures and surrenders, more information could be included to generally explain to the researcher which boy was being surrendered or indentured and to whom. This information

¹⁹ “Draft Bylaws of the Boston Asylum and Farm School for Indigent Boys, May 12, 1834,” Thompson’s Island Box 70.

could, however, be learned from the records without the detailed examination of special diplomatics.

Diplomatic analysis of the case files also revealed nothing in the documents which could not be learned from a simple scan of the files. The only way in which diplomatics might change the way in which these files are arranged is in their internal arrangement. A diplomatist may want to group the records according to the procedure to which they relate, but to do so for each case file would be time consuming and ultimately meaningless. It would presume that the interest of the researcher in the administrative details of how the school conducted its business is so great that the time which would be spent rearranging case files is justifiable. Valuable information on how the school organized and used its files might also be lost by tinkering with the original order of the records. The likelihood that these files could be shuffled by another researcher, and that detailed arrangement would be lost should also be considered.

Has diplomatic analysis of these files revealed enough new information to justify its regular use in arranging and describing these files? No, the analysis is simply far too detailed. It is not, in most cases, the form of the document which has revealed new information, but the content of the document. The supporting documents which were found were not, by and large, governed by the rules of form described by Duranti. Many were written in a narrative style, and their role in the procedure was revealed through their content. Narrative records are not composed according to the rules which govern form for more formal dispositive or probative documents—their “form” does not reveal more about the procedure than their content. The contribution of diplomatics to the discovery of the role of these documents lies in its standardization of the procedural phases and its emphasis on identifying them. The contribution is that of general diplomatics, not special diplomatics.

The Massachusetts Institute of Technology

The second case study was conducted at the Massachusetts Institute of Technology (MIT) on records of the Patent, Copyright, and Licensing Office. The series chosen consists of patent prosecution files, which contain the application for the patent and additional documentation relating to the application process. The files were used by Arthur Smith, head of the Patent, Copyright, and Licensing Office (PCL) and general counsel of the Office of Sponsored Programs (OSP). The PCL was a division of the OSP until 1977. Since 1973 the OSP was responsible for the business administration aspects of research projects sponsored by government, industry, or foundations.²⁰

²⁰ *Policies and Procedures: A Guide for Faculty and Staff Members* (Cambridge, Mass.: Massachusetts Institute of Technology, 1979), 197.

In 1920 MIT established the Division of Industrial Cooperation and Research to govern the terms and conditions of work performed by MIT with outside companies.²¹ The name was changed in 1932 to the Division of Industrial Cooperation, and, in 1956, the Division of Sponsored Research (DSR) was established to replace the Division of Industrial Cooperation and the Division of Defense Laboratories.²² A Patent Section was added to the DSR in 1970, with Arthur A. Smith appointed as the General Counsel. In 1973 the DSR became the OSP, and Arthur Smith became head of the Patents and Copyright Office, which reported to the head of OSP²³ until 1977, when it became the Patent, Copyright, and Licensing Office and began to report to the Vice President for Research.²⁴ The files analyzed in this case were received from the Patent, Copyright, and Licensing Office, even though those which were created prior to 1977 were created by the section of the OSP called the Patents and Copyright Office. The files served the same purpose for both offices, to pursue letters patent for inventions of MIT faculty.

MIT policy states that intellectual property, such as patentable inventions, belongs to MIT if it is developed with significant use of MIT administered resources, and the intellectual property is not the result of sponsored research or subject to an agreement with a third party. Decisions regarding significant use are made by the director of the laboratory where the invention has been created or the head of the department of which the inventor is a member. Because MIT owns the intellectual property, the patent is assigned to MIT, and MIT prosecutes the application and retains the right to sell licenses to third parties to produce or use the invention, while the inventor receives a percentage of revenues generated by the sale of the intellectual property. The OSP is the office which is responsible for pursuing the patent application.²⁵ MIT also hires an independent patent attorney to prosecute business in the patent office of the United States Department of Commerce.

Two case files from the Patent, Copyright, and Licensing Office were examined using special diplomatics. The first file, created between 1974 and 1976, is an application by two professors in the Department of Aeronautics and Astrophysics for a patent on improvements in vacuum cleaning. The second file, created between 1979 and 1981, is an application by two professors in the Department of Mechanical Engineering for an "Article for Im-

²¹ "The New Chief of Industrial Cooperation and Research," *MIT Technology Review* 22 (1920): 62–63.

²² "Administration of Sponsored Research," *MIT Technology Review* 59 (November 1956): 27.

²³ *MIT Report of the President and the Chancellor* (Cambridge, Mass.: Massachusetts Institute of Technology, 1972–1973), 296–98.

²⁴ *MIT Report of the President and the Chancellor* (Cambridge, Mass.: Massachusetts Institute of Technology, 1976–1977), 489.

²⁵ *MIT Report of the President and the Chancellor*, 1976–1977, 167–69.

planting Radioactive Metal on a Substrate.” Diplomatic examination of the files revealed two processes documented in these files: the process of making the application “allowable” for a patent, and the process of licensing the patent to third parties. When an application is “in a condition for allowance,” that means that the application was successful, and the letters patent will be issued. Identifying documents involved in the final stage of these administrative procedures was difficult in these cases. The actual “Letters Patent” which would represent the executive phase of the patent procedure are absent. Since the patent was issued in the name of the inventors, it is likely that they received the actual letters patent, or they may be part of a separate series not yet accessioned by the MIT archives. The “Notice of Allowance” is considered to represent the executive phase of the application procedure in the first case, and the publishing of the patent represents it in the second case. In the first case, there is no document indicating that a license was ever issued, but the procedure which would lead to the licensing is evident in included correspondence. In the second case, an agreement was reached with the National Science Foundation, which funded the research that resulted in the invention. This document represents the final act in the licensing procedure, although there is evidence that a license sale was being negotiated with another party.

The background material for these patent prosecution files consists of *Policies and Procedures: A Guide for Faculty and Staff Members*, published by MIT, the *MIT Technology Review*, *MIT Reports of the President and Chancellor*, and the “Guide to the Ownership, Distribution, and Commercial Development of M.I.T. Technology.” These sources provide an understanding of the offices which are involved in prosecuting patent applications and selling the licenses. We know from them that MIT employees are obligated to assign to MIT any patents resulting from work conducted with a significant contribution of MIT resources. The Office of Sponsored Programs is identified as the office within the Patent, Copyright, and Licensing Office which handles the negotiation of the assignment, prosecutes the application, and pursues sales of licenses. Diplomatic examination of the patent prosecution files did not reveal any new information to explain that role.

Diplomatics did reveal the details of the prosecution procedure. However, conducting such an examination to learn this information is not helpful to the archivist’s function of describing these files. In fact, it confuses the issue, forcing the archivist to focus on answering questions whose answers do not necessarily reveal the big picture. It is far too easy to get caught up in deciding what specific role a document played in a procedure, which is only a small part of the whole. For example, many of the documents requesting payment of fees played dual roles as bills and receipts, and were a necessary step in the procedure because payment of them was required. Knowing this

does not help to describe the file, or to understand MIT's procedure any better. It only shows that MIT paid the fees, which a quick study of the administrative background material had already shown.

Duranti claims that it is not necessary to carry out a diplomatic analysis on every file in a series. She says that we can extrapolate the information learned from a few files to the entire series.²⁶ The two files examined above contain very different types of documents, however, and the role of MIT in the creation of those documents varied. In the case of the Haldeman invention, Arthur Smith, general counsel of the OSP, was involved at every stage. He acted at many points as the contact between Haldeman and the outside attorney, and played a direct role in prosecuting the application by arranging or authorizing payment of some of the fees involved. His role is not well documented in the second application of Nathan Cook, where the patent attorney acted more independently. We only know from the administrative sources that this role and the role of his office had changed to one of greater involvement in the licensing stage.

Diplomatic examination in these cases did not clarify the role of Smith, and in fact confused his role. Diplomatic analysis of these documents would lead the archivist to believe that in prosecuting these applications, Smith was acting in his capacity as general counsel to the OSP, but in fact he was acting as head of the Patent, Copyright, and Licensing Office. He has not qualified his signature as such, and by relying on the records for this information, it is easy to confuse his two roles.

The object of diplomatic analysis of these records was to identify the procedures documented in these files, to determine if the files represent the complete procedure or a stage in the procedure. We have determined that the complete procedure whereby MIT prosecutes the application for patents is contained in these files. This information was not revealed in the form of the documents any clearer than it would have been revealed by an easier, more general examination of the content of the files, guided by an understanding of the policies and procedures of the Patent, Copyright, and Licensing Office.

Identifying the extrinsic and intrinsic elements of documentary form in modern documents is not as simple or obvious a process as Duranti wants us to believe. Modern documents are not organized in the same way as medieval or early modern documents, and unless they are of an official dispositive nature, they are often designed with no thought to some standard of documentary form. Modern typesetting technology allows forms to be designed according to how much information must be obtained. The emphasis is on efficiency, getting one form to perform many different functions. Forms can also be changed frequently to add or subtract information, making identifi-

²⁶ Duranti, "Diplomatics," Part IV, 19.

cation of patterns, even in files which were produced only a decade apart, difficult or even impossible. The preprinted government forms used in the Haldeman case to request the payment of fees or acknowledge receipt of the application were very different from those in the Cook case.

In terms of the task of identifying other offices which are involved in different stages of the transaction or which intervene in it, *diplomats* does identify other “persons” who are involved in the procedure. The other persons are the inventors, the U.S. Patent Office, and the outside patent attorneys. *Diplomatics* would contribute to description by providing the information necessary to identify the links between the files of all of the players. In this case, since the MIT archives has no legal title to any of the records of these other persons, there is no question of reuniting related documents. However, cross-references would still be possible.

After analyzing two patent prosecution case files, we find many drawbacks to using special *diplomats* to analyze modern records. Contextual information in the form of manuals, guides, and policy statements is extant, and since archivists are now able to acquire files close to the time they were created, they have the extra resource of department personnel who can provide additional information regarding the files. With the abundance of contextual information available to help us understand the function of these files and their contents, *diplomatic analysis* is not justified by the benefits gained in terms of an improved understanding of the procedure.

Conclusion

In this article I have attempted to reduce special *diplomats* to practice and analyze the effectiveness of special *diplomats* in accomplishing its purpose of identifying the actual procedures involved in accomplishing tasks. Conducting a *diplomatic analysis* on the records of Thompson’s Island and MIT did reveal the procedures which were the object of the study, but the procedures were not significantly different from the way they were described in the various manuals and administrative sources available. Examining these sources is a more efficient way in which to find the information necessary to appraise, describe and arrange these records.

Although an understanding was gained as to how each document participated in the final act and how the creators of the documents participated in the genesis of the final document, this understanding did not result from the analysis of form, but only indirectly from the detailed analysis which required an unusual amount of concentration on the details of individual documents. These details included the dates, creators, and content of the documents. It was these elements of documentary creation rather than the identification of individual elements of extrinsic or intrinsic form which led to the “map” of documentary creation which resulted.

Special diplomatics was not particularly helpful directly, and, if used on modern documents on a day to day basis, would not significantly benefit practicing archivists, but would entangle them in details. One can learn about the function of a "Base Issue Fee Transmittal" without needing to worry about where its disposition was located on the form, or what constituted its eschatocol.

It is not necessary to conduct a diplomatic analysis in order to identify the procedure documented by a file and determine if it is part of another procedure. Special diplomatics does not improve upon the practice of archivists by requiring them to identify elements of form. In most cases the analysis did not reveal more about the procedures and how the documents supported those procedures than the information provided in other sources. It was also simpler and less time consuming to simply go to the administrative sources for information. The time spent analyzing each document to identify the elements of form which composed it was far out of proportion to the final result.

The original purpose of diplomatics was to authenticate documents. Diplomats identified elements of form used to analyze in medieval documents in order to determine their authenticity. It is for this reason that the analysis is so detailed and concentrates on identifying elements of form which make documents complete and effective. When Jean Mabillon formulated his method, this level of detail was necessary to authenticate documents. Usually there was only one document to analyze representing one complete transaction. European archivists continued to rely on diplomatics to analyze medieval documents, using diplomatics to reveal the information regarding their purpose, provenance, and the process of their creation. Diplomats is useful for these purposes and helpful to the archivist because contextual information regarding medieval documents is scarce.

Duranti has recently been working with the Department of Defense on a project using diplomatic theory to develop a means of authenticating electronic documents. Electronic records present much more difficult problems in authentication than paper records because of the way in which they are created and transmitted. They can be more easily altered and their origin is sometimes difficult to trace. Diplomats identifies certain key elements in documentary form which must be present in order for a document to be authentic and enforceable. Using diplomatic theory to standardize these forms and ensure that the necessary elements are present could provide a means of authentication for these documents. The elements would be required for the document to be transmitted, thereby preventing the transmission of an incomplete or inauthentic document. The project is described in detail at Duranti's website, <<http://www.slais.ucb.ca/users/duranti/>>.

Consideration of these factors—the numbers of modern documents, the availability of contextual information, the significant investment of time which special diplomatics requires, and the fact that using special diplomatics produces no significant benefits and has significant drawbacks—leads to the conclusion that it should not be applied to modern North American collections. However, general diplomatics provides a number of important concepts which should be studied by archivists for their contribution to archival practice and theory, and can contribute to the ways in which archivists examine records without requiring the detailed analysis of special diplomatics.