Administering the Law: Hungary's *Loca Credibilia*

Zsolt Hunyadi

The notary's function was essentially that of witness: he had been present, and had written down what happened; or he had seen a document and drawn up a copy of it – so wrote Robert Swanson on the role of England's public notaries in the thirteenth century.¹ He could have written almost the same words in respect of the uniquely Hungarian institution of the *loca credibilia*: an institution which for several centuries co-existed in Hungary with that of the public notaries.² The *loca credibilia* were, however, rather more than *scriptoria*, 'copying shops', or institutions of witness. Besides their role in recording and verifying transactions and in drawing up deeds, the *loca credibilia* performed a vital function in discharging the tasks of royal government and in undertaking judicial and administrative duties on behalf of the ruler and of his principal agents.

The aim of the following brief survey is to indicate the principal characteristics of this particular vehicle of 'private' legal literacy. The so-called 'places of authentication' (*loca credibilia*) were institutions which witnessed legal transactions mainly by issuing upon request charters under their own authentic seal.³ The background to this activity may most immediately be linked to a decree of Pope Alexander III in 1166. This

---

2 For the most recent summary (with a survey of the relevant literature), see Tamás Kőfalvi, 'Places of Authentication (*loca credibilia*)', *Chronica*, 2, 2002, pp. 27–38. For a detailed overview, see also Martyn Rady, *Nobility, Land and Service in Medieval Hungary*, Basingstoke and London, 2000, pp. 62–78.
decree laid down that, after the death of witnesses, only those documents might be considered valid which had been drawn up by public notaries (*manu publica*), or else which carried an authentic seal.\(^4\)

Studies of legal literacy indicate that sealed charters had acquired in large parts of Europe a legal character even as early as the second half of the eleventh century and that a fundamental distinction arose around this time between sealed and unsealed instruments.\(^5\) In contrast to the Mediterranean region, in England and northern France new vehicles of legal literacy were pressed into existence which were in several respects similar to the Hungarian one. There were, thus, no public notaries in England before the late 1250s.\(^6\) Consequently, at the Council of London in 1237, Otto, the papal legate, increased the number of institutions (among others, chapter houses and convents) whose seals might henceforward be deemed authentic.\(^7\) This development should, of course, be viewed as part of a much longer process during which 'the use of seals extended down the social scale from princes and barons through the gentry to smallholders and even serfs'.\(^8\)

In accordance with the precepts of canon law, in France the seals of the pope, of the king, and of the various religious houses as well as of persons having jurisdictional competence, were considered authentic. Contrastingly, in Germany, all sealed documents retained a *fides plenaria*.\(^9\) Despite the apparent congruence between French and


\(^{9}\) Kumorovitz, 'Authentikus pecsét', p. 49.
Hungarian practices, a critical difference existed. As László Mezey has shown, officiates in France issued documents in their own names. In Hungary, by contrast, chapter houses and religious institutions always published documents as corporations.\textsuperscript{10} We may infer from this that the ecclesiastical character of Hungary’s \textit{loca credibilia} lent these institutions their credibility as well as, perhaps, providing some sort of financial guarantee for the parties concerned. Moreover (and as we will see), while the French \textit{officiale}s exclusively administered private legal affairs, the Hungarian \textit{loca credibilia} also acted at the behest of the royal curia.

The origins of Hungarian legal literacy can be traced back to the beginning of the eleventh century. Although most charters attributed to St. Stephen are of dubious provenance,\textsuperscript{11} it is widely accepted that the royal court attracted learned and erudite men from Germany. The number of charters issued by the royal court scarcely rose over the course of the eleventh century. Nevertheless, a respect for the written record is evident during the reign of King Ladislas I (1077–95). Evidence of legal literacy is suggested by surviving or reconstructed charters (although at this time they were issued without seals).\textsuperscript{12} The canons of the Council of Esztergom, published around 1100, provide further evidence of a wider reception of literacy.\textsuperscript{13}

The next step was the appearance of sealed private charters at the turn of the twelfth century, which partly originated from the statutes of Ladislas I and of Coloman (1095–1116).\textsuperscript{14} Although only one (reconstructed) \textit{cartula sigillata} is so far known, it has been shown that such documents were used in commercial transactions between Jews and Hungarians as proof of purchase or of a loan.\textsuperscript{15} During the late eleventh


\textsuperscript{11} Six of the ten charters analysed proved to be forgeries while the rest have been interpolated or reformulated in the course of time.

\textsuperscript{12} From the years 1051, 1061, 1067, 1079 — given in György Győrffy (ed.) \textit{Diplomata Hungariae Antiquissima ab anno 1000 ad annum 1131}, Budapest, 1992, pp. 169, 182–85, 225–26.

\textsuperscript{13} Arts. 20, 21, 32: \textit{DRMH}, 1, pp. 63–4.

\textsuperscript{14} Art. 7. (1077): ibid, p. 14; \textit{De Judaeis}, Art. 3: ibid, p. 66.

and twelfth centuries, the majority of sealed charters were issued at the request of the beneficiaries involved. Doubtless they felt it important to have their rights and obligations recorded in writing. In this respect, Hungarian usage conformed to wider European norms. A characteristic feature of documents of this type was that their authenticity was based on the attached royal seal which symbolized the king himself.

The final impulse which brought the places of authentication into existence was the reform of the royal chancellery introduced by King Bela III (1173–1196). During Béla's reign, beneficiaries ceased to be responsible for drawing up charters recording transactions; this task was instead apportioned to the clerks of the royal chancellery. According to a widely received opinion, Béla III was most probably influenced by Western European models, partly French and, to a certain extent, English, but there is no agreement on this point. László Mezey, for instance, has pointed out that French private legal literacy flourished only after 1220–1230 and, thus, could not have influenced Béla III's reforms. Instead, Mezey and others trace the origin of Béla's reforms to the Byzantine court. It may well be that the 'pragmatic literacy' introduced by Béla's uncle, Manuel I, served as an inspiration, especially in respect of the formal establishment in Byzantium at this time of defined vehicles and instruments of authenticity (demosiosis).

19 For instance, Géza Érszegi and Árpád Varga.
A second group of scholars – including Ferenc Eckhart, Imre Szentes-petry, L. Bernát Kumorovitz and György Bónis – have argued that the places of authentication evolved as autochthonous institutions and that they originated out of the office of pristaldus (usually translated as bailiff)\(^\text{21}\) and of the role played in the eleventh and twelfth centuries by the major chapter-houses in administering ordeals.\(^\text{22}\) The importance of the pristaldi in acting as a living record of transactions was reduced by the aforementioned decree of Pope Alexander III which, as we have seen, emphasized that after the death of the witnesses, all other instruments except for sealed documents lost their validity. Moreover, these bailiffs were regularly bribed (or at least said to be) by the parties involved. The renewal of the Golden Bull in 1231 regulated and restricted the role of the pristaldi. As Article 21 laid down, 'because many people suffer harm from false bailiffs, their summons or testimony shall not be valid without the witness of the diocesan bishop or the chapter'.\(^\text{23}\)

This provision of the Golden Bull of 1231 indisputably assisted the development of the places of authentication. Nevertheless, an equally important influence was the administration of ordeals. The ordeal was 'a medieval method of legal proof based on the belief in direct divine intervention in the determination of guilt; the accused was bound to carry a hot iron for a definite distance or had to put his/her hand in hot water, and was deemed innocent if s/he emerged unharmed'.\(^\text{24}\) The business of establishing guilt or innocence was overseen by the church. As a consequence, ecclesiastical institutions were vested with an authority in determining proof which served as the basis for their further accumulation of a fides plenaria. Moreover, in the course of proceedings, the injured hand of the accused person was bandaged and closed with a seal, which demanded the use of seals in the churches concerned. It should, however, be noted that the earliest charters issued by the loca credibilia were unsealed: that is to say, sealing was not regarded as an indispensable element of the private legal documents \textit{ab ovo}.\(^\text{25}\)

\(^{21}\) Cf. \textit{DRMH}, 1, p. 141; ibid, 2, p. 249.
\(^{22}\) Cf. ibid, 1, p. 148. The expression derives from the Slavonic ‘pristav’ — ‘to be present’.
\(^{23}\) Ibid, l,p. 38.
to a transaction acted as the principal means of evidence and they might subsequently be called upon to tell what they recalled. As such, the witnesses were separately named and listed as *presente* or *presentibus* in the eschatocols of charters. In short, the origin of the places of authentication may be attributed to (1) the activity of the royal chancellery which served as a model, (2) the development of customary practices most notably in respect of the ordeal, and later (3) the use of the authentic seal. Documents sealed with an authentic seal (*sigillum authentico*) had complete authenticity (*fides plenaria*): that is, they were to be given full credit by all parties concerned. Certainly, in respect of (3), Hungarian practice diverged from West European norms. In Hungary, no one’s seal was considered authentic in respect of his own affairs. Indeed, even the places of authentication turned to each other to record their own legal transactions. Nevertheless, the conventions governing Hungarian practice served to confirm and reinforce the authority and weight given to the seals of the principal religious houses.

Which religious houses constituted places of authentication and when did they acquire this role? The earliest were the leading chapter houses: Veszprém in 1181, Székesfehérvár in 1184, Buda (subsequently known as Óbuda) in 1211, and Arad in 1221; and soon thereafter, from the mid-thirteenth century, the Benedictine abbey of Pannonhalma, the Premonstratensian priory of Jászó, the Stephanite commandery of Esztergom, and the Hospitaller commandery of Székesfehérvár. These constituted – along with the other religious houses belonging to these orders – an embryonic institutional structure.

According to recent studies, there were almost seventy places of authentication in the medieval kingdom of Hungary and by the beginning of the fourteenth century these institutions covered the entire realm. Besides the cathedral and collegiate chapters, one may also find the convents of the Benedictines, the Premonstratensians, the

---


28 Thirteen convents: see Bónus ’A közhatékoség szervei’, p. 132.

29 Six convents: ibid.
Hospitallers, and the Canons Regular of St. Stephen. There is, however, no sign of similar activity among either the Cistercians or the mendicant orders. Some scholars have pointed out that the lack of a conventual seal hindered such activities. It is known, however, that the Cistercians played an important role in charter production in Poland.

As a result of the development and consolidation of these institutions, the 'written record' had superseded 'memory' by no later than the last third of the thirteenth century. In respect of church affairs, however, ecclesiastical courts did not accord full recognition to charters issued by the loca credibilia. This fact paved the way for the first public notaries appearing in Hungary at the turn of the thirteenth and fourteenth centuries. In contrast to the places of authentication, the public notaries had a much reduced role and their competence was largely confined to the field of canon law. Certainly, there was much trespassing across legal spheres. For instance, suits concerning filial quarters and dowers were often raised before an ecclesiastical court but, inasmuch as they also concerned landed property, cases of this type were usually 're-routed' to the secular courts.

Since the owners of proprietary churches and monasteries were able (or so it was alleged) to influence the business of record-keeping, King Louis I (1342-1382) ordered in 1351 that the seals of the smaller religious houses (conventus minuti) be withdrawn and broken. The process of 'down-sizing' was completed by 1353. As a direct consequence, from the mid-fourteenth century, several ecclesiastical establishments ceased activity as loca credibilia while several chapter houses and convents – most notably, the chapters of Székesfehérvár and Óbuda, the Bosnian chapter, and the


32 Anna Adamska, 'From Memory to Written Record in the Periphery of Medieval Latinitas: the Case of Poland in the Eleventh and Twelfth Centuries', in (ed.) Heidecker, Charters and the Use of the Written Word, pp. 83–100 (p. 91).


35 11 December 1351 (Art. 3): DRMH, 2, p. 10.
Székesfehérvár Hospitaller commandery — were given a country-wide authority to issue charters in respect of private transactions.36

***

The activities of the places of authentication can be categorized as either 'internal' or 'external'. Internal activities included (1) the issue of *litterae fassionales* recording private legal transactions (e.g. the conveyance of estates, divisions of property, pledges); (2) the publication of *litterae relationales* which were reports sent to the curia concerning the administration of out-of-court procedures; and (3) the transcribing of letters of record (*litterae transcriptionales*), usually for the purpose of their safe-keeping. As to their formal characteristics, three types of charters can be distinguished: *litterae privilegiales, patentes*, and *clausae*. According to the type (or content) of the given document, different set phrases — in fixed order — can be found.37

<table>
<thead>
<tr>
<th>I. PROTOCOLLUM</th>
<th>LITTERAE PRIVILEGIALES</th>
<th>LITTERAE PATENTES</th>
<th>LITTERAE CLAUSAE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>intitulatio</td>
<td>intitulatio</td>
<td>intitulatio</td>
</tr>
<tr>
<td></td>
<td>inscriptio</td>
<td>relatio — address</td>
<td>salutatio</td>
</tr>
<tr>
<td></td>
<td>salutatio</td>
<td>relatio — salutatio</td>
<td></td>
</tr>
</tbody>
</table>

| II. CONTEXTUS | arenga                  | promulgatio      | promulgatio     |
|               |                        | (narratio)       | (narratio)      |
|               | disposicio             | disposicio       | dispositio      |
|               | clausulae              | clausulae        | clausulae       |
|               | sanctio                | sanctio          | sanctio         |
|               | corroboration          |                  |                 |

| III. ESCHATOCOLLUM | datatio              | datatio           | datatio         |
|                    | (datum or actum)     | (datum or actum)  | (datum or actum) |
|                    | series dignitatum    |                  |                 |
|                    | sor testes            |                  |                 |

The general structure of the formulaic set of the charters issued by the places of authentication


Other characteristics of the charters published by the *loca credibilia* include the use of either parchment or paper, handwriting, graphic symbols and ornamentation, the seal itself and whether the deed was recorded in the manner of a chirograph. The scribes (*notarii*), headed by the *lector* of the chapter, and the *custodes* (or the priors) of the religious houses ensured that on each occasion the type of charter which was issued befitted its content. Their work was aided by the use of model charters and, later, formularies which contained set patterns for many types of deeds.

The 'external' activity of the places of authentication included (1) the perambulation of boundaries (*reambulatio*), (2) the institution of new owners to estates (*statutio*, *introductio*), (3) the recording of last wills in homes, and (4) the performance of inquests (either the *inquisitio simplex* or the *inquisitio communis*). The procedure in respect of this 'out-of-court' business started either in the immediate vicinity of the place of authentication or before one or more of its members and was performed for the most part orally. In the case of mandates received from the curia or a royal judge ordering a *reambulatio*, *statutio* or *inquisitio*, the competent official of the house opened the letter of instruction and read it aloud in front of the canons or brethren. In most cases, a canon or brother was then sent to the property or place named in the mandate to accomplish the job on the spot (he was usually accompanied there by a royal bailiff or *homo regius*). From the mid-fourteenth century, it became general practice for the scribes who wrote up the charters to name the cleric who was appointed to perform these external services and to give an indication of his rank. As recent studies have shown, in many instances the clerics appointed were senior clergy and not simply choir priests. Receivers of substantial prebends were supposed to be better equipped to resist temptation and to be less open to bribery. The members of the *loca credibilia* sent to perform these external tasks were supposedly also familiar with both local custom (*consuetudo terrae*) and custom of the realm (*consuetudo regni*), notwithstanding their origin or mother-tongue. Having completed the task in hand, the canon(s) or brother(s) returned to the chapter-house or the convent and delivered an oral report. This was subsequently included in the letter of relation which was sent back to the curia or judge. The letter of relation reported that a *statutio* or *reambulatio* had been undertaken or, if it was contested, gave details of whom had opposed it. In the case of an inquest, the letter of relation would summarize the evidence which had been taken there. Sometimes, the

---

38 Zoltán Máklósy, 'Hiteles hely és iskola', p. 171.
Administering the Law: Hungary’s Loca Credibilia

places of authentication also issued on request copies of the letter to the parties concerned. The letter of relation, once received by the curia or judge, served as evidence in ongoing legal actions. It might be used, therefore, to demonstrate that a property was held unlawfully, that a boundary was incorrectly laid, that a violent trespass had taken place, or that an owner’s claim to his estate was not certain. If further evidence was needed, the curia or judge might instruct the place of authentication to perform additional tasks or to summon the parties to court.

Places of authentication were very similar to each other with regard to the revenue they obtained from their work (especially the fees received for issuing a charter, performing an inquest and so on). It is difficult to estimate accurately the overall income of these houses, for there is no reliable information available on the number of matters transacted by any single locus credibilis. Fortunately, there are several articles in decrees enacted during the thirteenth and fourteenth centuries which fixed the fees for procuring charters and for performing other services. Although many of these passages refer to the fees which were due to the royal chancellery, they still provide some indirect evidence as to the costs charged by the loca credibilia. It is apparent, for instance, that ornate or painted initials increased the price of a privilege. Even on relatively simple charters a gap (sigla) can sometimes be found which was left for the (missing) initials. This suggests that the writing and the decoration of the charters represented different phases in their production. In respect of the Székesfehérvár Hospitaller commandery, for instance, all evidence of spectacular ornamentation disappears after 1280. This was presumably due either to the relative poverty of the parties who turned to this particular place of authentication, or to the increased number of charters issued by its scriptorium. From the middle of the fourteenth century the decorative initials reappeared but never reached the previous level. Another factor was the appearance in the first half of the fourteenth century of paper which replaced parchment at least in the case of letters close and patent. It certainly made charter production cheaper.

It is, however, difficult to calculate the exact proportion of income received by those members of a chapter or convent who played a role in


the business of authentication. It is unlikely that the analogy of the chapters can be applied to the monastic sites, since the leaders of the chapter's chancellery, the lector and his deputy, the sublector, as well as the choir priests, received their fees as part of their prebends. In respect of the monastic orders it seems that the custos and/or prior, even though they had a clear role in the authentication, did not derive any separate revenue from this activity. Additionally, with respect to the Hospitaller commanderies, it should be noted that only a few commanderies profited from this type of legal business — most notably Sopron, Újvard, and Szekesfehervar. In this respect, the status of Szekesfehervar was significant, since it was the only Hospitaller place of authentication which was allowed to continue its activity after the reforms of King Louis I in the early 1350s. The Székesfehérvár commandery was one of the four most important places of authentication and it continued its activity up to the mid-sixteenth century, until the Turkish occupation of this part of the Hungarian kingdom.

In conclusion, it is worth noting that the non-Hungarian reader may find the loca credibilia less unique as an institution than Hungarian scholarship has traditionally allowed. Despite the many differences, there are numerous similarities to be found in the activity of other European medieval institutions which had a role in charter production and in administering the law. Much new information has been unearthed since the publication of Ferenc Eckhart's seminal work in 1915. Not only his students but also a new generation of medievalists have contributed to our understanding of the institutional history of the places of authentication. The important task now is to couple the work of Hungarian scholars with the wider European literature on charters, scriptoria and procedural law, and to achieve thereby a truly comparative perspective.

41 Mezey, 'A pécsi egyetemalapítás', p. 77.
42 In the case of the commandery of Dubica, matters were arranged differently. See Hunyadi, 'Locus Credibilis', p. 292.