The Legal Status of Formulaic Elements in Late Medieval *Protocolla.*

Mark Vermeer – mark.vermeer@kuleuven.be

In a conference on formulaic languages in the past, it is worthwhile to add an analysis of the ideas and opinions of contemporaries on the nature, uses, and limitations of formulaic elements. This contribution will study such elements in a particular set of sources, *i.e.* registers of several town and village courts in the Bailiwick of 's-Hertogenbosch (Brabant), containing acts of voluntary jurisdiction, more specifically for the fifteenth and sixteenth century. The point of departure is the function of formulaic elements in learned legal thinking (*ius commune*) of the Middle Ages and Early Modern Period, as many jurists wrote on the nature of public instruments and the correct *modus operandi* for their creation. The contribution will discuss three questions. What was the legal position of the protocol in *ius commune*? Was it considered to have probative force? Secondly, what was the result of this debate on the attitude towards formulaic language? And thirdly, are these ideas reflected in contemporary practice?

1. The legal position of the protocol in ius commune

As evidenced by the vast numbers of records found in the *Digitale Charterbank Nederland*, launched in 2019, the most numerous source type for the Middle Ages and Early Modern Period are charters or, in legal terminology, instruments.[1] These are divided into two categories: private and public instruments, of which the latter will be subject of this contribution. A public instrument (*instrumentum publicum*) is a written document establishing or announcing a legal act, issued by one or more persons in their capacity as holders of a public office and imbued with public authority, such as notaries, judges or courts, and princes.[2] Its legal status was guaranteed by a number of validation elements, both material (*e.g.* a seal) and textual. The latter formed a significant part of public instruments and was built up out of formalities of a highly formulaic nature.

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[1] https://charterbank.huygens.knaw.nl/, accessed January 2, 2024. See also J. Burgers and R. Hoekstra, "De Digitale Charterbank Nederland. Grootschalige digitale bronontsluiting en het historisch onderzoek", *BMGN - Low Countries Historical Review* 136 no. 3 (2021): 92-119.

[2] Maria Milagros Cárcel Ortí, ed., *Vocabulaire international de la diplomatique* (Valencia: Universitat de València, 1997[2]), 78, no. 295. Here the term is used only for those acts written by a notary public, but it extends to all acts issued by a public official or holder of public power.

From at least the twelfth century it was common practice for notaries to make notes (*nota*, later also called *imbreviatura* or – as I will use throughout this paper – *protocollum* or protocol) while they witnessed the legal act, containing the essential information such as the names of the parties, the content of the legal act, the date, and the names of the witnesses.[3] These notes were generally highly condensed and abbreviated in form since they were made on the spot and served as a reminder, and were only later extended into a fully fledged public instrument. While it can be assumed that it was not uncommon to create the instrument from notes, the custom of systematically making and preserving drafts was innovative.

A fundamental change was initiated by the papal decretal *Cum P. tabellio* from 1179.[4] In it, the pope decreed that if a notary had made notes but had died before being able to extend these into a public instrument, another notary could perform this last step at the request of the parties and on authority of a judge. A second step was set in 1215 with the decretal *Quoniam contra falsam*, in which the pope ordered each court to employ either a public notary or two skilled men to record all cases discussed by that court.[5] These records were to be kept with the scribes (*penes scriptores*) of whom the parties could request copies of the records pertaining to their case. Whereas the first decretal concerned notaries, who combined the role of issuer with public authority with that of scribe; the second treated the ecclesiastical courts, where the public authority was imbued in the judge rather than the scribe. This thus more

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[3] Cárcel Ortí, ed., *Vocabulaire international de la diplomatique,* p. 88-89, nos. 348 and 357.

[4] Emil Friedberg, ed., *Corpus iuris canonici: editio lipsiensis secunda*, vol. 2, ad X 2,22,15: '*Quum P. tabellio morte praeventus quaedam non perfecerit instrumenta, quae in nota redacta fuerant ab eodem, ad petitionem eorum, ad quos pertinent, auctoritate ordinarii iudicis poteris ea fideliter in publicam formam redigere, habitura per hoc perpetuam firmitatem.*'

[5] Friedberg, ed., *Corpus iuris canonici*, vol. 2 ad X 2,19,11: '*Quoniam contra falsam assertionem iniqui iudicis innocens litigator quandoque non potest veram negationem probare, quum negantis factum per rerum naturam nulla sit directa probatio, ne falsitas veritati praeiudicet, aut iniquitas praevaleat aequitati, statuimus, ut tam in ordinario iudicio quam extraordinario iudex semper adhibeat aut publicam, si potest habere, personam, aut duos viros idoneos, qui fideliter universa iudicii acta conscribant, videlicet citationes et dilationes, recusationes et exceptiones, petitiones et responsiones, interrogationes et confessiones, testium depositiones et instrumentorum productiones, interlocutiones et appellationes, renunciationes, conclusiones, et cetera, quae occurrerint, competenti ordine conscribenda, loca designando, tempora et personas. Et omnia sic conscripta partibus tribuantur ita, quod originalia penes scriptores remaneant, ut, si super processu iudicis fuerit suborta contentio, per hoc possit veritas declarari, quatenus hoc adhibito moderamine sic honestis et discretis deferatur iudicibus, quod per improvidos et iniquos innocentium iustitia non laedatur. Iudex autem, qui constitutionem ipsam neglexerit observare, si propter eius negligentiam quid difficultatis emerserit, per superiorem iudicem animadversione debita castigetur, nec pro ipsius praesumatur processu, nisi quatenus in causa legitimis constiterit documentis.'*

resembled the many urban courts, including those that will be treated further in this contribution.

In making these decisions, the popes had opened a path that undermined the traditional form of legal records. For if the notes were a sufficient basis for another notary to create a instrument that held perpetual validity (*perpetua firmitas*), would this mean that they already had some probative value themselves? And if so, what role was there left for the formalities, normally added only in the public instrument?

During the thirteenth to fifteenth centuries, jurists further expounded on this matter, differing in opinion. Some argued that the protocol was a 'mother scripture' (*matrix scriptura*): the earliest and thus most original record of an act. As long as all the essential information was present, it held probative force; and even more than a public instrument, which was only a copy of or derivative from the protocol (an *exemplata*).[6] Others disagreed and stated that a protocol lacked the formalities. It was incomplete and therefore void of probative value. Only after the addition of all elements did the record acquire sufficient proof.[7]

The matter divided legal scholars for most of the later Middle Ages, although over time developments in urban administrative practices strengthened the position of the supporters of the protocol. In various Italian communes, new laws ordered notaries to deposit their registers with *protocolla* in the city archives, where they were preserved and could be consulted more easily when parties disagreed or fraud was suspected.[8] The recourse to the protocol inevitably meant a reinforcement of its position as means of proof. Thus, while thirteenth-century scholars such as Hostiensis and Nicolaus de Matarellis were unwilling to grant the protocol probative force, their fourteenth-century colleagues were less hesitant. Bartolus de Saxoferrato preferred the protocol above the public instrument in all cases; Albericus de Rosate followed him insofar the record was probative, not constitutive.[9] Baldus de Ubaldis sought a compromise between De Matarellis and Bartolus by distinguishing between non-public and public *protocolla*. The former were recorded in the personal notebooks of the notary; the latter in the

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[6] Baldus de Ubaldis, *In I, II et III Codicis libros commentaria* (Venice: Iuntas, 1615), folio 57r, n. 39.
[7] E.g. Hostiensis, *In secundum Decretalium librum commentaria* (Venice: Iuntas, 1581), folio 120r, ad X 2,22,15, '*Cum P. tabellio*', n. 5. Nicolaus de Matarellis, *Tractatus super instrumentis*, ed. Francesca Macino (Rome, 2012), 41-58.
[8] Pierpaolo Bonacini, *Multa scripsit, nihil tamen reperitur. Niccolò Mattarelli giurista a Modena e Padova (1240 ca.-1314 ca.)* (Bologna: Bononia University Press, 2018), 127-28.
[9] Bartolus de Saxoferrato, *In ius universum civile commentaria*, vol. 2 (Basel: Froben, 1562), 575, ad D. 31,47, '*Sempronius'*. Albericus de Rosate, *In Primam Codicis Partem Commentarii* (Venice, 1586), folio 208r, ad C. 4,21,16, '*Contractus'*, n. 2.

publicly kept registers and had full probative value.[10] No true conclusion of the discussion was ever reached, but at the end of the fifteenth century the Brabantine legal scholar Willem van den Tanerijen remarked that 'there are different opinions among the doctors of law, but the common custom in many countries is that if both an instrument and its protocol are being exhibited, more trust is given to the protocol than to the instrument'.[11]

2. The function of formulaic elements in the protocol

While a public instrument required two elements, the *substantialia* and the correct juridical formulas, a valid protocol could exist with just the *substantialia*. These were the date, witnesses, names of the parties, the subject of the legal act, and any further specifications or conditions. Apart from their mere presence, these parts also needed to be free from alterations, erasures and additions, to avoid the suspicion of fraud.

A less strict attitude was held towards formulaic elements, as these were not absolutely necessary. Nonetheless, the fifteenth-century canonist Panormitanus argued that a protocol had probative force when it contained the complete text of the instrument, without abbreviations.[12] In his interpretation, the only legal characteristic separating the protocol from the public instrument was the seal or notarial sign. Bartolus had stated that only common abbreviations should be allowed, such as Roman numerals rather than numbers written out in full.[13] When larger parts or formulaic phrases were abbreviated, there was a chance that another scribe – whose role had been introduced by *Cum P. tabellio* – would interpret them wrongly and errors would seep into the text of the instrument. Bartolomeus de Saliceto brought forward the opinion that abbreviated formulaic phrases needed to be resolved according to local custom: the scribe could become acquainted with this custom by comparing existing instruments.[14] This was only possible if the protocol was not a constitutive

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[10] Baldus, *Commentaria*, folio 57r, n. 40.
[11] Willem van der Tanerijen, *Boec der loopende practijcken der raidtcameren van Brabant*, ed. Egied Strubbe, vol. 1 (Brussels: C.A.D., 1952), 161, c. 32, [4]: '*Ende oft een prothocol bij hem selve volle thoenisse maict, dairaf zijn opinien onder die doctoers van rechte, mair die gemeyne costume van veele landen onderhoudt, eest dat een instrument ende zijn prothocol geproduceert wort, dat men meerder geloove geeft den prothocolle dan den instrumente*'.
[12] Panormitanus, *Commentaria secundae partis in secundum Decretalium librum* (Venice: Iuntas, 1591), folio 112r, ad X 2,22,15, '*Cum P. tabellio*', n. 3.
[13] Bartolus, *In ius universum civile commentaria*, 2:302, ad D. 28,5,9,2, *§ Sed si non*.
[14] Bartolomeus de Saliceto, *Ad I, II, III et IIII libros Codicis commentarii* (Lyon: Servain, 1560), folio 302v, n. 10-11.

text. In constitutive texts there could be no doubt or room for scribal interpretation: there was no solution (*nullum remedium*). Baldus agreed with the first part of Bartolomeus' opinion: a comparison with other public instruments could shed light on how to work out the formulaic elements, which he called 'accidental sections' (*capitula accidentalia*). His student Giovanni d'Imola even wrote that all *protocolla* were probative rather than constitutive. That meant firstly that abbreviated words in all *protocolla* could be extended according to local custom, but this was restricted only insofar it concerned the main legal act, not any additional acts. Say that, for instance, a protocol recorded the sale of property which was accompanied by other legal acts, such as a renunciation by the seller of the object of the sale or a promise to safeguard the buyer from any obligations unknown at the time. If the protocol recorded these last two acts as '*renunciavit etc.*' and '*promisit etc.*', the text of the protocol was sufficient proof of the sale but not of the two accompanying acts, since they were abbreviated too extensively.[15]

3. Formulaic elements and *protocolla* in practice: the Bailiwick of 's-Hertogenbosch

In order to study the permeation of learned legal thought in practice, I will now turn to the attitude towards formulaic elements in a corpus of court registers from the Bailiwick of 's-Hertogenbosch, the northern region of the duchy of Brabant. In the fifteenth and sixteenth century, it was mostly a rural region, with a single major city – 's-Hertogenbosch – and a number of smaller central places such as Oisterwijk, Oirschot, Helmond, Eindhoven, Boxtel, and Hilvarenbeek.[16] Registers have survived from the courts of aldermen of most of these places, as well as from several villages, allowing a survey of administrative customs in the region.

Several references to the relation between *protocollum* and public instrument exist in sources from Brabant or even the Bailiwick. A princely ordinance of 1451 granting a court of aldermen to the villages of Geel and Duffel decreed that in both courts the scribe should record contracts in his register and read them aloud to the parties; only

[15] Giovanni d'Imola, *Super secundo Decretalium* (Lyon: Regnault, 1549), folio 100r, ad X.2.22.15, '*Cum P. tabellio*', n. 3

[16] Raymond van Uytven, "Les moyennes et petites villes dans le Brabant Septentrional avant 1400", *Publications de la Section historique de l'Institut G.-D. de Luxembourg* 108 (1992): 65-84.

after their consent the contracts were ratified and expedited into public instruments.[17] Witness depositions from – among others – Moergestel acknowledged the primacy of the protocol over the public instrument, often in cases were a discrepancy was found between the two.[18]

While no manuals, formularies or other prescriptive texts have survived, the *protocolla* regularly mention the *forma* or *melior forma* as the correct form. This *forma* does not refer to one fixed formulary throughout the Bailiwick, as the texts of the various courts' public instruments can be roughly divided into two types. Subjectively formed charters were issued in the name of the aldermen personally; they began with a *intitulatio* and *notificatio*, usually followed by the annunciation of the seals ('We, N. N. aldermen in X, testify under our seal(s) that); and concluded at the very end with a *datatio* ('Given in the year of our Lord'). Objectively formed charters immediately began with the disposition, *i.e.* the actual legal act, followed by a *corroboratio* and *datatio* ('Witnesses were aldermen in X, N. and N., who attached their seals, in the year of our Lord'). On the level of the individual words and phrases local customs are observable, but this mostly concerns details and had no legal consequences. Regardless of this flexibility, and despite the lack of extant formularies, there were notions of what was acceptable and what was not. A fifteenth-century 's-Hertogenbosch contract, a deposition regarding the fulfillment of a debt, has a marginal note stating that the contract has been engrossed as an act of conveyance, because otherwise it would have not been valid and be in conflict with the correct form.[19]

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[17] Philippe Godding, ed., *Recueil des Ordonnances des Pays-Bas. Première série, 2e sectie* II, 277-280 (no. 177): '*die voerweerden en zullen ierst moeten sijn gescreven in hueren registere ende dan gelesen wordden voer hun in presentien van partyen, den welcken sij dan sullen vraegen oft sij die voerweerden alsoo willen kinnen ende verlijden. Ende seggen zij dan jae, soo sullen zij dan daermede voert vaeren naeden rechten ende gewoonten van huerder banck, ende daerenteynden daer aff verleenen scepenen brieven besegelt metten gemeynen zegele oft metten zegelen vanden scepenen alsoo gewoonlijck es*.'

[18] Tilburg, Regional Archives, Archive of the Court of Aldermen of Moergestel, no. 290, folio 154r: '*Soe wanneer dat men ennich gebreck bevyndt in ennigen scepenbrieven die besegelt siin of onbesegelt, dat men die brengt bii den protocolle, ende soeverre dien brief niet en accordeert metten protocolle der hii uut gegaen, datmen te als dan altiit dien brief corrigeert ende accordeert metten protocolle; ende noyt gesien en is dat men dat protocolle corrigeert na den brief* '.

[19] 's-Hertogenbosch, City Archives, Archive of the Court of Aldermen of 's-Hertogenbosch, no. 1240, folio 314r: '*Ingrossatus est iste contractus per modum supportacionis quia alias non valeret et esset contra formam*'.

3.1. Attitude towards general sections of the *protocolla*

The first point of attention is the attitude towards large or more general sections of the *protocolla*. As a protocol needed primarily to contain the *essentialia*, the exact form of the contract could be shaped by the scribe according to the *forma*. The courts whose instruments were formed subjectively rarely repeated the formulaic initial sections in every new protocol. A record with the names of the aldermen at the beginning of the year sufficed; the individual registrations began with the legal act itself. In Oirschot the phrase '*Wy [7 names], scepenen in Oerscot, tughen onder onsen ghemeynen zegel dat voer ons comen is*' was abbreviated consistently to '*Dat comen is*', while in Hooge and Lage Mierde the protocolla began with '*Prologus ut supra*', referring to the first occurrence that was written out in full.[20] This approach would have not been a problem under *ius commune*. Scholars had debated at length whether the dating of an earlier record would also apply to a subsequent record that had no dating clause: the general opinion was that this would indeed be the case.[21] By analogy, the same answer would be given with regard to such formulaic phrases, especially since in the latter example the subsequent records explicitly referred back to a first record that did contain the extended formula.

Somewhat more freedom was taken by the scribes in formulaic phrases that influenced the shape of the contract, in particular when the act depended on an earlier act. In 's-Hertogenbosch, contracts in which a party promised an annuity to another party were often directly followed by a acknowledgement of the right to redeem the annuity. Such contracts were initiated with the words '*Et poterit redimere*', followed by the redemption sum and conditions.[22] In Helmond, such acts began with the words '*Recognitio quitandi*'.[23]

Similarly, there are many examples of 'chains' of legal acts linked by the same parties or object: for instance, the renunciation by a widow of her usufruct in her late husband's estate at the behest of her children, followed by the children (having combined ownership and usufruct) selling it to a third party. In several courts in the

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[20] Several occurences are found in Eindhoven, Regional Historical Centre, Archive of the Court of Aldermen of Helmond, no. 53.
[21] For instance Bartolus, *In ius universum civile commentaria*, vol. 1 (Basel: Froben, 1562), 176, ad D. 2,13,6,6, *§ Si initium.*
[22] Geertrui Van Synghel, ed., *Het Bosch' Protocol. Een praktische handleiding* ('s-Hertogenbosch: Stichting Brabantse Regionale Geschiedschrijving, 1993), 79.
[23] See for an example Eindhoven, Regional Historical Centre, Archive of the Court of Aldermen of Helmond, no. 3793, folio 43v.

Bailiwick, a special *forma* was used to emphasize the connectedness. In the public instrument of the second act, the first act would be included as a *narratio*, introduced by the words '*Notum sit universis quod cum*', after which the second act would follow with the words '*Constituti igitur coram scabinis infrascriptis'*.[24] The protocolla bear witness to a different approach, as the first and second act were recorded consecutively. Here, rather than recounting the previous act, the second act began simply with '*Quo facto*' or '*Notum sit universis quod, cum ita actum esset*'.[25] Once the protocol had to be expedited, the scribe copied most of the previous act for the narratio, taking into account the grammatical tense (the narrative parts were written in a *conjunctivus* past perfect).

Lastly, scribes had some freedom in combining or separating contracts of a similar nature – possibly at the request of the parties involved. We can see this in acts of partitions of estates or inheritances. In 1462 the village scribe of Hooge and Lage Mierde recorded such a partition among a number of persons divided in two portions. The common model for such acts started with the identification of all parties, followed by the respective lots of each of the parties. In his notes he made *protocolla* for each lot, and rather than repeating the identification of the parties, he commenced the second protocol with '*Prologus ut supra*'. In doing so, he considered each lot a separate record and added additional formulaic sections that would not have been necessary if the entire partition had been recorded as a single act. The opposite occurred as well. A 1428 's-Hertogenbosch a partition in four portions had to be written in a single instrument, with copies of the entire text for each of the four parties.[26]

3.2. Attitude towards individual phrases in *protocolla*

Apart from the general sections of the *protocolla*, there were other formulaic elements that deserve attention. The most commonly found were those that concerned the additional securities and appear in each in of the tens of thousands of contracts registered by the aldermen.

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[24] Van Synghel, ed., *Het Bosch' Protocol*, 141.
[25] Van Synghel, ed., *Het Bosch' Protocol*, 77 and 103.
[26] 's-Hertogenbosch, City Archives, Archive of the Court of Aldermen of 's-Hertogenbosch, no. 1198, folio 80v: '*Ponantur isti quatuor contractus in una litera et fiat per modum divisionis et quadruplicetur tota divisio*'. Another clear example can be found in no. 1253, folio 322r: '*Notetis vos ingrossator quod isti tres contractus signati per literas A B C fiant in una litera*.'

Protocol: '*promittens super omnia ratam servare et obligationem et impetitionem ex parte sui deponere*';
Instrument: '*promittens dictus magister Arnoldus ut debitor principalis super se et bona sua omnia quod ipse huiusmodi supportacionem et resignacionem ratas et firmas perpetue sine contradictione observabit et quod ipse omnes obligacionem et impeticionem ex parte sui in dictis censibus existentes prefato conventui deponet omnino*'.[27]

While the phrase in the protocol is less than a third of its counterpart in the public instrument and has been completely undressed, it is textually complete and circumvents the use of 'etc.'. It thus conforms to the requirements prescribed by D'Imola. Curiously, in most other courts the truncation of such phrases through the use of 'etc.' does exist, most commonly in Oisterwijk and Helmond.[28] Such phrases would formally not be accepted by jurists. A possible explanation for the appearance in the latter courts is the use of language. The court of aldermen of 's-Hertogenbosch was pretty unique in the Bailiwick in the longlasting use of Latin for the acts of voluntary jurisdiction.[29] Latin was a language that was both shorter in syntaxis than the vernacular, and was subject to a system of abbreviations that allowed significant compression of the text. Combined with the fossilised formulary used in the 's-Hertogenbosch secretariat, it allowed the scribes to express a significant amount of text in only a limited amount of graphs.

There are two other ways scribes used to abbreviate this type of formulaic elements. Occasionally there are references to the *melior forma*. An Oirschot scribe writing *c.* 1500 included in a protocol the phrase '*voert ut moris est ende commer van siinen wegen af te doen*'.[30] The instrument of this act, in the same scribal hand, has the extended version '*Ende Henrick voers. heeft voert geloeft op hem ende op allen siine*

[27] Van Synghel, ed., *Het Bosch' Protocol*, 49 and 53.
[28] An example from Oisterwijk: Tilburg, Regional Archives, Archive of the Court of Aldermen of Oisterwijk, no. 161, folio 30v: '*ab eisdem competentem etc., resignavit eisdem etc*.' An example from Helmond: Eindhoven, Regional Historical Centre, Archive of the Court of Aldermen of Helmond, no. 3793, folio 53r: '*Ende geset etc. ende te weren* […] *ende heeft voirt geloeft die onderpanden voirg altiit goetgenoch ende waeldoeghende te maeken voer die twe mud rogs erfpachts voirg. op hem etc*.'
[29] Geertrui van Synghel, *Actum in camera scriptorum oppidi de Buscoducis : De stedelijke secretarie van 's-Hertogenbosch tot ca. 1450* (Hilversum: Verloren, 2007), 251-253.
[30] Eindhoven, Regional Historical Centre, Archive of the Court of Aldermen of Oirschot, no. 2356, folio 358v.

gueden hebbende ende vercrigende tot behoef der Tafelen des Heyligeests vors. dit opgedragen, overgeven ende vertiiden eweliick vast ende stedich te houden ende allen commer van siinen wegen daer in af te doen'.[31] Secondly one could refer to an earlier record that contained the phrases in full. This was particulary useful if a series of similar acts was recorded. In a 1516 series of four records each detailing a lot in a partition, the heavily formulaic mutual promises and conditions were written out in full only in the first record; the other three refer to these phrases with '*et scribatur ut in littera precedenti*' or '*et scribatur ut supra*'.[32]

4. Conclusive remarks

This paper has demonstrated that by the fifteenth century there was general agreement among jurists that a *protocollum* held probative value. A number of legal scholars were in opposition, but they occupied a minority position, being overwhelmed by the acceptance of the protocol in everyday legal practice. Within *protocolla* formulaic language was not a necessity, but could be added during the expedition based on local custom. There were opinions on the degree of abbreviations and truncations allowed in formulaic phrases.

While formulaic elements were by no means absent from the protocolla in the registers of various town and village courts in the Bailiwick, they were generally highly abbreviated. The use of truncations of common phrases by 'etc.' went against *ius commune*, but was apparently acceptable within the administrative customs and did never – as far as is known – lead to issues.

The practical boundaries of this paper do not allow us to answer the question whether compliance of recording practices with *ius commune* thought is the result of intentional behaviour, for instance by scribes familiar with learned law, or that general custom simply approached the ideas of learned law closely. Further research is therefore highly desirable.

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[31] Eindhoven, Regional Historical Centre, Archive of the Table of the Holy Spirit of Oirschot, no. 463.

[32] Tilburg, Regional Archives, Archive of the Court of Aldermen of Oisterwijk, no. 220, folio 25r. The full formulaic phrase is '*met afgaen ende verthyen als daertoe behoerliick is, geloevende als principael sculderen op hen ende op allen huere gueden die sii nu hebben ende namaels hebben ende vercrigen dese erfdeylinge ende erfsceydinge* [names of the recipients] *altyt vast ende stentich te houden sonder ennich wederseggen, ende allen commer ende calaengie elck van ziinen wegen ende van wegen dergheenre daer zii elck voir geloift hebben, als voirs. staet, altemael aff te doen denselven, met vorwaerden toegedaen indien op desen erfpacht in toecoemende ennigen commer met recht quame, dien commer hebben zii geloeft optie verbyntenisse voirs., geliick als voer, te helpen gelden ende te dragen*'.