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**Public notary in medieval Catalonia:
some considerations**

Daniel Piñol-Alabart

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Special Issue

Il Notaio nella società dell'Europa mediterranea (secc. XIV-XIX)

The Notary in the Mediterranean European Society (14th-19th centuries)

A cura di / Edited by

Gemma T. Colesanti - Daniel Piñol-Alabart - Eleni Sakellariou

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Public notaries in medieval Catalonia: some considerations¹

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Abstract

This article examines the history of the Catalan public notary in order to review some of the most important elements in the development of the notarial institution in Catalonia. This review will also allow us to detect the gaps in this history and to suggest some mechanisms to fill them. We establish a periodisation to facilitate the analysis of the evolution of the Catalan notary. This allows us to study the origins of the notarial institution in depth and to see how it has been treated by the various authors who have studied the topic.

Keywords

Catalonia; Middle Ages; Notarial documents; Public notary.

Resum

En aquest article es fa un repàs a la història del notariat públic català per tal de revisar alguns dels principals elements del desenvolupament de la institució notarial a Catalunya. Aquesta revisió ens permet detectar algunes llacunes en aquesta història i suggerir alguns mecanismes per a omplir-les. Establim una periodització per facilitar l'anàlisi de l'evolució del notariat català. Això ens permet estudiar detingudament els orígens de la institució notarial i veure com ha estat tractada pels diferents autors que han treballat sobre el tema.

Paraules clau

Catalunya; Edat mitjana; Documentació notarial; Notariat públic.

Introduction. - 1. *From 1155 to 1281: the beginnings of the Catalan public notary.* - 2. *From 1281: the definitive implementation of the public notary.* - 3. *Documents and research.* - 4. *Bibliography.* - 5. *Curriculum vitae.*

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Introduction

Research on the Catalan notarial institution has a long tradition in historiography, counting with authors devoted to its scholarship and various lines of research. An examination of this trajectory shows that research on the notarial institution and its documentation still holds great interest. And still, many gaps and uncertainties remain around several aspects related with public notaries and their documents.

The aim of this article is to review some fundamental elements of the history of Catalan public notaries that allow for a closer study. This review will also allow us to detect gaps in the knowledge of the institution's history and to suggest mechanisms to fill them. In turn, we will consider which lines of research should be followed to extend knowledge about the Catalan notarial institution and its historical development.

This paper will tackle the history of this institution by means of a periodization that facilitates its historical analysis. These observations provide a reflection on how the origins of the public notary have been treated and what suggestions we can offer to those embarking on the study of this institution in the Middle Ages, concerning matters like the way this history has been periodized, where its beginnings have been established, the nomenclature used for these periods, among others². One of the authors that pioneered the study of the public notary was Honorio García (García, 1947), who considered the need to develop regional studies covering the history of the document, the notarial function, and the notarial organization. The starting point of his study is the emergence of the office of the public notary in society through the figure of the *scriptor publicus*, mainly because he had a clear and concise knowledge of the evolution of public notary in Vic (García, 1947b), which we wish to highlight here. Additionally, the eminent Catalan notary and scholar R. Noguera mentioned the need for local studies to procure a more inclusive history of the public notary. Local variations and the differences in the norms regulating the different kinds of notaries call for careful, in-depth analysis (Noguera, 1948, p. 42). These two precedents allow for a thorough study of the history of the Catalan public notary through the lens of local examples. Based on these, we aim to contribute some reassessments to existing research through the re-

² In Catalan, the Civil-law or Latin notary is referred to as "notari públic," which would literally translate to "notary public" or "public notary" in English. In the text, we will use the expressions "public notary" to refer to the Civil-law official, which should not be confused with the Common Law figure of the notary public.

interpretation of texts and new examples that offer a wider knowledge of the history of the Catalan public notary office in the Middle Ages.

The history of the Catalan notarial institution starts in Medieval times and continues up to the present day. To enable the analysis of this long history, we suggest dividing it into three phases, which coincide with three fundamental moments in the development of the public notary. This periodization aims to draw attention to the changes that occurred in each of the phases regarding the organization of notaries, their appointment, the creation of notarial chambers and the notarial practice itself. These chronological turning points also mark changes in the way that documents were written and in private legal practice through the incorporation of new formulas in discourse. Throughout these phases in the evolution of the notarial institution, a clear concern emerges for the conservation of documents generated by notaries, resulting in the creation of notarial archives.

We suggest starting the first period in 1115 with the concession of the notarial office in the city of Vic; with a second period starting in 1281 with king Peter the Great's review of the property of notarial offices; and a third period beginning with the imposition of Castilian customs on Catalan public notaries in 1736. Yet a fourth period could be established after 1862, with the publication of the Organic Law of Spanish Notary Public (*Ley Orgánica del Notariado Español*), which regulates and unifies notarial practice.

As can be seen, then, the first two periods span the Middle Ages, although the second extends well into the mid-18th century, when radical changes were brought about by reasons foreign to the development of the notarial practice itself, as will be explained later in the following sections. Our focus will be on the first two periods, since we consider them to be essential for a correct understanding of the evolution of the notarial institution. We also find it imperative to review the scholarly literature in order to reinterpret issues addressed by previous authors.

1. From 1155 to 1281: the beginnings of the Catalan public notary

Like in most territories under the influence of Roman law, the origins of the Catalan public notary can be traced back to the 13th century with certainty. Still, earlier evidence shows that public notaries did not appear out of nowhere, but rather evolved out of roots already found in the Roman world. This is shown by Italian historiography analysing the relations between the classical and medieval notarial institutions, with certain local cases displaying an almost imperceptible transition between the two (Amelotti - Costamagna, 1975, pp. 5-

16; Cencetti, 1966, pp. XIX-XXIX; Petrucci, 1958, pp. 3-20). José Bono gives a clear and succinct account of the evolution between the early medieval and Roman notary in the Latin West, covering also the *scribae* of the Visigoth kingdom. There is a clear continuity in the appointment of Roman *tabelliones* after the fall of the Western Roman Empire. The Byzantine tradition also had a clear influence in the area of Ravenna, with *tabelliones* constituting true depositaries of Roman law. Bono also explains how the figure of the early medieval *scriptor*, which would later evolve into the *notarius publicus*, emerged from the need for new legal forms that addressed the social and economic circumstances of the time (Bono, 1979, pp. 58-91).

In the case of Catalonia, there is no need to go that far. In the early Middle Ages, most documents were written by clergymen. In this way, many *sacerdotis*, *levitae*, *monachi* or simply *scriptori* are attested in the subscription of Catalan documents, as the authors of private contracts. According to the traditional view, clergymen wrote private documents because they were educated and literate, which also suggests that there was a clerical monopoly on documentation "(...) due to the scarce literacy of the secular classes" (Durán, 1955, p. 73). But professional *scriptores* are detected already in documents from the 11th century, with some entitled as *notarii* but lacking the *publica fides* with which to attribute authenticity to documents (Baiges, 1994, p. 134). The first such reference is from 1085, but we have to wait until the middle of the following century for a regular appearance of these professional scribes (Arnall - Baiges, 1999, pp. 72-73; 2010, p. 19 and pp. 25-28; Piñol, 2000, pp. 97-99; Zimmerman, 2003, pp. 147-164). They were laymen or clergymen that worked for the count of Barcelona or for the episcopal authority. They can be found working in the royal notary's office, where scribes like Bernat de Caldes, Ramon de Sitges or Pere de Corró had an important role in the creation and management of the documents of count Ramon Berenguer IV and king Alfonso I (Trenchs, 1983, pp. 49-68). These scribes developed an important activity in the notary, and they frequented remarkable cultural environments (Gimeno - Trenchs, 1992, p. 501). For example, the aforementioned Bernat de Caldes is documented as working in the royal notary's office as a royal notary between 1167 and 1194, when he was a canon in Lleida. His brother, Ramon de Caldes, was dean of the cathedral of Barcelona and compiler of the *Liber feudorum maior* around 1196 (Baiges, 2011, p. 77), during the reign of Alfonso I. Likewise, Pere de Corró is documented as a member of the notary office in the service of Ramon Berenguer IV (1131-1162) and he continued in this capacity during the reign of Alfonso I. Moreover, he worked as scribe and notary, both for the cathedral and the city of Barcelona. He himself was the son of another scribe-

notary from this same city, and his sons Pere and Guillem are also present in the notary office of Alfonso I. We can see how these emerging circles of Catalan notaries were developing in both the lay and the ecclesiastic spheres. These professional scribes belonged sometimes to the clergy, as seen above, but there were also laymen. However, most practicing scribes in the ecclesiastical offices were members of the clergy. This is only logical given that, as stated by Zimmerman, the role of clergymen as *scriptori* was assigned by bishops, or the archbishop of Tarragona, who appointed canons and other clergymen from his closest circles to write documents. For example, in Barcelona, the levite Geraldus is documented with the title *Barchinonensis episcopi notarius*, which carries a very different connotation in the concept of *notarius* from that of late medieval public notary (Altisent, 1993, pp. 103-104)³. The reason for the appointment of clergymen from the episcopal entourage to write documents was their education, although they were not the only ones, since there were also lay scribes (Zimmerman, 2003, pp. 153-154). This breaks with the traditional view, mentioned before, according to which laymen were less literate than clergymen. This gives reasons to doubt the certainty that only clergymen had enough writing competence to belong to a sphere that held some degree of monopoly over culture in general and written culture in particular. Francesc Carreras Candi, in his pioneering 1906 paper on the history of the Catalan notarial institution, places this cultural dissemination in the 13th century resulting in an increase in the number of lay scribes at the expense of clergymen (Carreras, 1906, pp. 323-328). Indeed, it was from the 13th century on that the number of lay notaries working in local offices increased. This access of laymen to culture and, in consequence, to the notarial profession, was due to the diffusion of law studies at university, especially in Bologna. Both lay and ecclesiastical students attended these schools, which became true centres for the dissemination of common law in Catalonia, as has been shown on many occasions (Piñol, 2000, pp. 75-97).

Of course, the entry of laymen into the world of written culture and the profession of public notary was not sudden, but it progressed gradually so we can confirm the above-mentioned examples within the second half of the 12th century, to which we should add those of professionals devoted to composing private documents. This period can be seen as the beginning of the history of the Catalan public notary in its origin. Still, it is difficult to establish a precise starting point for the particular case of Catalan public notaries, unlike in other

³ Doc. 106 (1146 December, 28th); doc. 107 (1146 December, 28th).

territories within the Crown of Aragon, and even in other Hispanic kingdoms. This is due to the absence of any specific event marking the creation of the Catalan notarial institution. Neither the documents nor the legislation offer a precise turning point in this regard. In light of these shortcomings, José Bono explains this lack of a creation moment for the Catalan public notary in terms of the wide and specialised development of the notarial institution in Catalonia from the end of the 12th century and the beginning of the 13th. This was not only an institutional development, as the practice of writing documents itself had also reached a significant technical level. That is why it was not necessary to legally establish the office of public notary as was done in Aragon, given the evolution of the figure of the *rogatarius*, who wrote and validated documents (Bono, 1979, p. 292; Piñol, 2015, p. 80).

The lack of documented references, legislation, privilege and the like leads us to confirm that in Catalonia there was no organic creation of a public notary (Conde, 1994 pp. 440-441). This calls for the establishment of an ex post starting point, for which the year 1155 may be suggested, always within the context set by José Bono in relation to the evolution of the institution and notarial documents throughout the 12th century. The date corresponds to the appointment of canon Ramon de Lió as the person responsible for the writing of documents, a concession granted by the local bishop, Pere de Redorta (García, 1947, p.8)⁴. This must be contextualised within a specific cultural framework in order to see the relation between written culture, literacy, and the ecclesiastical sphere. This very rich cultural context covered several manifestations, such as cathedral schools and the cathedral of Vic (Gros, 1991). We know, for instance, that the cathedral had an important law library including Visigothic legislation, canon law, and common law (García, 1969; Ginebra, 1998, p. 13). Moreover the environment of the cathedral and episcopacy of Vic was the setting for important developments in administrative and legal practice, with the production of a large number of documents from the 9th to the 12th centuries, from approximately 80 writers, generally named *scriba* or *scriptor* (Junyent, 1974, pp. 65-69). The document we are referring to in fact contains the appointment of a scribe and not a notary, but it may be considered as the original public notary of Vic, given how a specific person (a canon acting as *scriptor*) is assigned a function (writing documents). This concession of the notary of Vic took place within a rich context of document and book production, in which canon Ramon de Lió would have to write the

⁴ Arxiu Capitular de Vic (hereafter ACV), cal. 6, parch. 2341. 1155 May 20th.

documents of the parish of Vic: “constituo te Raimunde Lugdunu scriptorem omnium cartarum Vicensis ville et totius parrochie Sancti Petri in omnia vita tua”, except for testaments and *imbreviamentis*. These documents, as stated by Visigothic law, were under control of the judge, who was the sacristan of the cathedral in the case of Vic. This document concerning the creation of a notarial office in Vic and its concession to a canon attests to the fact that public faith was still not established throughout Catalan territory in the 12th century. This is indicated by Arcadi García, who suggests that the *usatge* “Si quis testamentum” prevailed at that time (García, 2000, pp. 495-496; Ferrer, 2000, pp. 32-33). This concession indicates a will to create a special office reserved for private documents (*omnium cartarum*), probably separated from the episcopal chancellery, although not from the writing activity of the cathedral. According to the document, the canon’s appointment was closely associated to his commitment to writing a copy of some volumes which he had already started. These volumes had to be at the service of the cathedral, which implies some kind of relationship between the emerging notarial institution and the *scriptorium Ausonensis* (Pladevall - Pagès, 1984; Ginebra, 1995, pp. 13-15)

Ramon de Lió was substituted in 1194 by another canon, Andreu Salmúnia, who was appointed by bishop Ramon Tedmar de Castellterçol as public writer of all the documents of the parish and city of Vic, also with the exception of the testaments of parishioners and the *imbreviaturas*⁵. In return, as in the first concession we have seen, this canon committed to making a cartulary with the documents of the cathedral, a task for which he requested parchments and the documents he had to copy from the bishop. Andreu Salmúnia is also the author of a book of customs (*consueta*) regulating cathedral liturgy (Gros, 1996). He worked as a *scriptor* – this is the concept included in the document of appointment – until 1234, and an important result of his activity in the office is the notary book of 1230-1233 (Ginebra, 1998, pp. 14-15). This register in fact clearly indicates the implementation in Catalonia of the renewal of the notarial institution and its evolution towards public notary following changes in the application of Roman law which originated in Bologna. In total, 420 notary books from the 13th century are kept in Catalan archives (Pagarolas, 2007, p. 33)⁶.

The example of the notary in Vic and the first two scribes that exercised their function in this office provide us with a clear understanding of the general

⁵ ACV, cal. 6, episc. I, parch. 55. 1194 August 8th.

⁶ On the first notarial books you can see chapter 3 in this article.

evolution from the figure of *scriptor* towards that of the *notarius publicus*. The case of Andreu Salmúnia is particularly clear, because in the subscriptions he always indicates both his ecclesiastical status and that of public scribe (“Andree, sacerdoti, publici ville Vici scriptoris”)⁷. He is not alone in this. In the 12th century many clergymen introduced their public condition in the subscription, although these cases need to be addressed with caution (Zimmerman 2003, pp. 154-157). In the case of Vic, this is clear given the evidence of the 1155 concession of the office of public scribe, but in other cases this is not so clear, especially given the lack of any data regarding concessions, that is, the authority by which notarial rights are institutionally appointed. Nevertheless, the primordial example of Vic is not indicative of a public scribe or notary, although it is an office created specifically for the elaboration of private documents, apart from other offices and book production centres surrounding the cathedral. We can also cite the examples of Peralada, where “Bernardus, subdiachonus et publicus scriptor Petralate” is mentioned in a document from the 8th of January, 1193 (Zimmerman, 2003, p. 155; Bensch, 2007, p. 130)⁸; and Cabanes, where “Berengarius, subdiachonus, public scriptor Cabanis” is referenced in a document from the 3rd of May, 1191, perhaps signing another document years later as “publicus notarius de Cabanis” (Bensch, 2007, p. 129)⁹. These two examples are from the county of Empúries, where it seems that counts had the customary right to appoint notaries and grant notary offices as public authorities. This is known because of a document from king Peter I to count Hug IV in 1211, through which he recognized the count’s liberties and committed to avoid royal intervention in the territory of the county of Empúries (Bensch, 2007, p. 124). In this case, the authority controlling the notary office and conferring public faith to attestors was the count.

The metropolitan and episcopal see of Tarragona is yet another case of this, with traces of the presence of a public notary found in the 12th century and early 13th century within the surroundings of the cathedral, the canons and the archbishop. The documents attest to the presence of clergymen who wrote documents for the cathedral and the archbishop. In 1149 we find a “Sendredus,

⁷ Altisent, 1993, pp. 272-273, doc. 358. 1169 September 27th. Vic.

⁸ Zimmerman dates it in 1192, but an examination of the original document changed the dates. Biblioteca de Catalunya (hereafter BC) parch. 5544. 1193 January 8th. It is a donation to the Santa Maria de Vilabertran monastery. Bensch transcribes the subscription as “subdeaconus publicus (...)”.

⁹ BC parch. 9977. 1191 May 3rd. In this publication, the author makes mistakes when transcribing the subscription of the “scriptor (subdeaconus publicus...)”.

notarius, ardiachonus Sedi (...)", and he appears again in other documents between 1151 and 1172, also including the word *notarius*. These are municipal and exemption charters given by the archbishop and the prince Robert d'Aguiló to the inhabitants of the surrounding Camp de Tarragona area, which clearly indicate both the authority the archbishop held over the territory, and the existence of a primitive chancery at his service. But some of these documents are copies inserted within cartularies so, on the one hand, the use of the word *notarius* may be an interpolation from the copy, once the figure of the public notary had already been introduced in the area. On the other hand, given Tarragona's metropolitan status and its important ecclesiastical environment, those in charge of writing the documents may have been called *notarii*, similarly to the cited cases of Barcelona from the same time. Likewise, in Tarragona we detect the existence of an office thanks to the presence of scribes that write documents by order of the main notary. For example, "Arnaldus, ypolevita, ho scripsi precepto Petri Terrachonensis notarii"; and also "Karbonellus, presbiter, hoc scripsit mandao Petri Teraconensis notarii". Here some considerations are due in relation to the caution required by these subscriptions. In the first place, the word *notarius* only refers to those in the relevant role within the archbishop's office. Others do not answer to this title, which suggests that they were subordinates, as proven by their respective subscriptions. It is also important to note the condition of clergymen as held by all notaries and *scriptores* in the archiepiscopal curia during the second half of the 12th century, which is the timespan for our earliest data for the existence of this office in Tarragona. This episcopal see became a bureaucratic centre where most documents regulating the occupation of the Camp de Tarragona were generated. This is an area where the archiepiscopal authority was fundamental, even though there were other authorities and interests (Juncosa, 2015, pp. 71-108). While reviewing the names of those who signed the municipal charters, we can further observe that most of them were situated around the cathedral, with some designated with the name of *presbiteri* and some even as members of the cathedral chapter. It is not until the first half of the 13th century that we find public notaries working at the service of the metropolitan curia or, maybe, of the notary of Tarragona (Ginebra, 2000, pp. 108-109) ("Raymundo de Villanova, tabellio publicus Terrachone, hoc scripsi mandato magistro Guilelmi Terrachone, notarii" – year 1242 –); or in a *scrivania comuna*, as in the case of Valls ("Petri Vacarisses, notarii publici de Vallibus qui hoc scripsi precepto domino Terrachone, ecclesie archiepiscopi") (Piñol, 2000, pp. 107-117). In all these subscriptions, like in the aforementioned case in Vic, we lack the key element, that is, the authority by which they exercise their notarial activity.

Nonetheless, unlike in Vic, in Tarragona there is no notice of the concession of a notary. The archbishop seems to have had the right to appoint notaries, scribes, bailiffs, barristers, and other public workers especially for the city of Tarragona and many other towns in the Camp de Tarragona, where he was territorial lord (Cortiella, 1984, pp. 19-20; Bono, 1982, pp. 135-138)¹⁰. In accounting for the notaries in the rest of the diocese, their organization, their regency and their activities, we have to consider rural parishes. According to Bono, local Tarragona notaries were run by a parish priest who acted in the capacity of *notarius publicus*:

(...) either as an extension of notarial activity by the bishop –attached to the rectory– (if the church was within the episcopal estate), or as a royal concession, through the payment of an annual pension (...). (Bono, 1982, p. 136).

Many parish notaries in Tarragona were accountable to the episcopal authority regarding the income of each church. These different forms of income included earnings from duties charged for the activity of local notaries (“... un memorial de les rendes de l’archebisbat nomenant tots los llocs, escribanies y part de on se cullen les rendes o entrades...”) (Piñol, 2000, p. 118)¹¹.

In the light of these examples, we can consider the 1155 document from Vic as a starting point for Catalan notarial institutions. But these are only a few examples of a gradual evolution, and they all clearly lack the key element that is the *auctoritas* by which notaries were granted public faith. In the first case of Vic there is an authority, the bishop, but public faith is still lacking, as indicated above and as can be observed in the concession document, which reserved the writing of certain documents, like testaments, for the judge. If the bishop's authority had been a *publica auctoritas* with the power of giving public faith to the canon *scriptor*, he would have given him the power of writing any kind of contract. But we have already seen that at the time public faith was still not completely implemented in Catalonia, and previous law coexisted with the Roman law from Bologna.

¹⁰ The notaries of some areas in Catalonia were appointed by the episcopal authority. Bono shows, for exemple, the case of Tarragona, where notaries were appointed by the archbishop, “...and it does not seem that they were by the king, because we cannot find any mention to the Royal *auctoritas* in the subscriptions of the notaries in Tarragona...”.

¹¹ AHAT, Arquebisbe, 89. *Índex Vell*. We do not have the date of this memorial, from which we have news thanks to a note included in the *Índex Vell*, an index book of the old archive form the archbishop, an archive that disappeared in the beginning of the 19th century.

To find some signs of public authority in the most evident form we have to go to the royal concessions of notaries. With these royal concessions, we can better understand the process of evolution from the *scriptor* to the *notarius*, which resulted in a gradual implementation of public notaries throughout the 13th century, with earliest signs already in the previous century, encompassing different Hispanic territories (Pons Guri, 1993, pp. 29-33; Conde, 1994, pp. 440-441; Pascual 1983). Still, this shift towards public notaries occurs earlier in Catalonia, and it runs parallel to the dissemination of Roman law and the renovation of the system of notarial document writing (Solé - Verdés 1994, p. 54; Baiges pp. 135-137).

The cases that have been exposed until now are indicative of the first steps of the public notary in Catalonia. But this evolution is made even more evident with the introduction of royal authority. Antoni Maria Aragó compiled thirteen documents (concessions, confirmations and renewals of notaries) through which we can see the functioning of notarial concessions, their nature, the authority that granted them, their conditions, and also the individuals and institutions to whom they were granted (Aragó, 1978). Aragó interestingly highlights how a very complex local casuistry led to the implementation of a wide typology of notaries. These notary offices were also known as *escrivania comuna*, which was the most widespread name for public notaries in Catalonia from the 13th century onward, although it already appears late in the previous century, as we will see:

We have seen the word *comuna* applied in different places to refer to the parish notary when the priests were notaries, and here this word referred to the parish notary, *common* to all parishioners, because it was there for their use (...) (Santamaría, 1917, pp. 102-103).

Among the examples gathered in this compilation is the donation of the notary of Vilafranca del Penedès to the parish of Santa Maria, and the clergyman Bernat personally (Aragó, 1978, pp. 8-9)¹². We know of this document dated December 1188 through a 1316 notarial copy in which the parish priest Pere de Torroella swears allegiance to king James II *por razón de la escribanía*. The author of this document is king Alfonso I, and this marks the appearance of royal authority, which would retain a central role often at the expense of other public authorities, be they lay or ecclesiastical lords. Two aspects stand out clearly in this document. On the one hand, the concession of

¹² Document 1. 1188 December.

the notary is to an institution (the document does not say that this is a public notary). The king donates the notary to the parish, so the property of the notarial office went to this institution, without exception. On the other hand, the clergyman Bernat is appointed public notary, and his successors would also have the character of public notaries, although the document does not mention their being lay or ecclesiastical, but simply that they would have the character of public notaries for all intents and purposes (“(...) per manum prefati Bernardi et successorum eius, quem publicum notarium seu tabellionem ibidem constituimus...”). Both the property of the office and the appointment of the notary emerge clearly from royal authority, which has assumed the power of appointing notaries as a public authority. The concession established some further elements, such as which documents could be written by the notary (“(...) testamenta, sponsalicia sive quaslibet cartas aut instrumenta ... exceptis solummodo brevibus et capbrevibus (...)); his scope of activity (“(...) notariam totam seu scribaniam ville jam¹³ dicte et territorii eius et parrochie (...))” and the earnings the crown would make from this, a rent of 100 *solidi* (“De huiusmodi autem donacione habui ego rex, centum solidos de rebus ecclesie per manum supradicti Bernardi clerici”).

We can see, then, an important difference with the 1155 document from Vic, in which the right to write testaments was reserved to the judge. Here this reserve is for other contracts, although it is unsaid which authority would write them. We see also that the document equates the concepts of notary and scribe offices, whereas in the document summary included in the volume’s edition, they are mentioned as two different offices –“(...) la notaria i escrivania de la vila”. Durán Cañameras, who previously informed of this document, had given a correct interpretation equating the two concepts (Durán, 1955, pp. 78-79). He provided a study of the donation of the notary by including a brief analysis of the role of the notary in the marketplace and the square, even comparing it with cities like Rome and Barcelona. It is logical that Durán briefly considers the role of the notary regarding markets, despite not delving into it. This reference to the square and the marketplace as spaces in which the notary operates is based on his own concession document, which includes the expression “(...) infra nundinas vel in foro (...))”, which interestingly places the notary next to the commercial activity which is the *raison d’être* of the city.

¹³ We are showing the original transcription made by Aragó, even though the correct form is *iam* instead of *jam*.

Thus, we now know that Vilafranca was founded in 1066 by count Ramon Berenguer I in the context of the creation of *vilanoves* or *vilafranques*, to which privileges and exemptions were given in order to favour the influx of new population. Vilafranca, in a flat area within the Penedès region, became a powerful economic, political, and administrative centre. The foundational documents have not been preserved. For our present purposes, we have to mention that there are notices of the celebration of a weekly market between 1177 and 1179, and also the celebration of an annual fair for saint Luke's day in 1191. This market turned Vilafranca into a commercial centre at the expense of La Granada, a traditional market village in the Penedès area (Soler, 2016, pp. 19-22). Another author writing on the history of the Vilafranca notary, Antoni Jordà, emphasizes the commercial aspect of Vilafranca's notarial privilege, leaving ecclesiastical matters aside and focusing instead on the need to give legal cover to economic transactions in the area (Jordà, 1983, pp. 7-12). Perhaps the parish was the most consolidated institution in this city by the end of the 12th century, rather than the Town Council. That is why the king's decision to favour the local church by giving them the right of a notary was not misguided and is not directly related to the literacy levels of the clergymen. However, as explained by Jordà, throughout the 13th century lay notaries began to work in this office, and other offices were created in the city which were always occupied by lay public notaries. These were appointed by the king and often held posts as the bailiff's or the *veguer's* scribes. The historical evolution of this notary is always connected to the ecclesiastical sphere, either because the parish held the concession of the office, or because in 1316 the parish priest paid homage to the king on account of the property of the parish scribe. Nevertheless, the notary was of royal property and regency, and public notaries were appointed by royal authority, which was part of the gradual process of royal expansion as notaries were dissociated from parishes (Jordà, 1983, p. 9).

All the documents compiled by Aragó are royal concessions, but the recipients of those concessions change: on three occasions the notary is given to the local parish (Vilafranca, 1188; Manresa and Montblanc, 1194) and on four occasions to various monasteries (Sant Pere de Besalú, 1203; Sant Pere de Camprodon, 1206; Santes Creus, 1211; Sant Esteve de Banyoles, 1226). The concession from king Alfonso I to the parish of Santa Maria in Manresa and its provost is especially noteworthy, given how no exception is made on the types of documents, and writing exclusivity is given to the notary of this office, which is designated as *comunem et publicam scribaniam*, unlike the above-mentioned cases of Vic and Vilafranca. With a difference of only a few years, Manresa

seems to display a public notary with all the typical designations of the late medieval notarial institution (Torras, 1993; Aragó, 1978, pp. 9-11)¹⁴.

But we know of other notarial concessions from the same period that emanate from other authorities. The case of Igualada is well known and should be considered within these first steps of the development of the notary. This city belonged to the bishopric of Vic but was part of the estate of the monastery of Sant Cugat del Vallès, which gave the notary to the parish priest and his successors in 1189. This attribution of the notary to the parish was validated by various monarchs, such as king Alfonso the Magnanimous in 1452, and also Charles I and Joanna of Castile in 1519 (Cruz, 1994). Nevertheless, like other notaries, this one faced problems resulting from the cession of a half of the estate to king James I in 1234. It is unclear whether this cession involved the creation of a royal notary in the town. According to the documental evidence, it seems that no second public notary was created, but some authors do not seem to provide a correct analysis or interpretation of the existing documents. The aforementioned study on the notary of Igualada indicates that, from 1283 onwards, the notaries in this office were called “notarios pro domino rege”. This shows that the documents were not analysed well and they were not compared with other cases, so that there is no proper understanding of what happened in 1283 (Cruz, 1994, p. 557)¹⁵. In that moment, the king restored the parishes’ right to the ownership of a notary, but the royal command, which will be referred to later, contained an obligation for priests to act as public notaries by the king’s authority.

There is more information on the concession of notaries in Catalonia, such as that compiled by Durán Cañameras, with scarce references to documents and notaries ascribed to the king and different lords. Some of them were given to parishes as emphyteusis with the possibility of transferring them *mortis causa* or to donate them *inter vivos*, or even giving them in subemphyteusis if their owner lacked the knowledge or the ability to manage them (Durán, 1955, pp. 71-73) –because he was not a public notary–, and others were given to private notaries without specifying what institution they belonged to. It also includes

¹⁴ Document 2. 1194 October.

¹⁵ The notarial protocol includes a form with the notarial subscription that notaries from Igualada had to write down, leaving a record of the *auctoritas regia*, proof that the notary was granted by the king to the parish, respecting the donation that the Sant Cugat monastery had made. A deeper analysis of the little data that this study brings would have contributed to a better knowledge of the case of Igualada, thus widening the data on the aforementioned local case.

notary concessions from the king to monasteries. For example, he cites the notary of the town of Camprodon, in Girona, which was granted to the sacristan of the church Sant Pere de Camprodon by king Peter the Catholic in 1206. This same king granted the local notary to the monastery of Sant Pere de Besalú in 1203, without a reference to the specific person within the institution, unlike in the previous one. And we are certain of the concessions to the monasteries of Sant Esteve de Banyoles and the Santa Maria d'Amer by king James I in 1226 and 1228, respectively (Durán, 1955, pp. 77-80), with the latter being dated from 1238 in the original document. The king grants the concession to the monastery and its abbot in perpetuity "(...) *positis habere publicum tabellionem in vestra villa de Amerio et in tota parrochia Sancti Michaelis de Amerio*". As seen in similar documents, the legal conditions indicate the limits of action for the notaries. These would be appointed by the abbot, as the document concedes him the right to appoint notaries to write *instrumenta et testamenta*, which would be signed with public subscriptions of the notaries (Marquès, 1995, pp. 159-161)¹⁶. Durán gives dates from the 13th and 14th centuries referring to various towns with news from chancery registers, very abundant from the reign of Peter the Ceremonious on (Durán, 1955, pp. 89-115). But he adds that it was not until the 15th century that the concept and name of notaries was specified, which is not true given how the figure of the public notary was well established in the 13th century. Contradicting his own statement to some extent, Durán states that in the 13th century the exercise of notarial activity began to be delimited, and also that it was a free profession but its organization was gradually regulated with the first notarial concessions. In this way, throughout the 13th and the 14th centuries, these institutions developed so that no town of a certain importance lacked a notary of royal concession. Durán mentions towns of a certain importance, but he also offers data from less relevant places, and indeed notaries became so widespread that legislation became necessary to regulate their distribution, implementation, and their relations with the territory, with local institutions, with feudal lords –lay and ecclesiastical–, as well as the higher church powers.

In this earlier stage the first notarial regulations are local in nature, although in some cases they come from the monarch. This is the case, for example, of the *Consuetudines Ilerdenses*, which in 1228 regulated notaries and the rules of their profession. In Lleida, however, new ordinances were promulgated in 1281 by Peter the Great, determining the distribution of earnings between the notaries

¹⁶ Doc. 101. 1238 November 18th.

of the city and himself, with the clear aim of retaining control over the notarial institution of an important city. With these ordinances, the king ordered that the year of his reign was inserted next to the date on the instruments, something which may be interpreted as the king seeking to proclaim himself owner of the notary or, even, of the public faith, when the king had only the authority to grant public faith to the notary. This regulation further included the names of the notaries authorised to exercise their activities in Lleida and the places where they had to settle, and restrictions of the writing of deeds exclusively to notaries with royal authority. A similar regulation can be found in Barcelona in 1278 (Conde, 1986, pp. 375-378). The other focus to consider regarding legislation is Tortosa. The *Costums de Tortosa* regulate the public notary in the heading of the ninth book. There, the requisites to access the notary are perfectly established, as well as their obligations, which would become one of the main concerns for public authorities (Massip, 1988, pp. 51-60).

This concern is evident in the order given by Peter the Great to the city of Barcelona, in which he commanded that public deed were to be written solely by notaries "(...) qui noviter a nobis habebant auctoritatem et concessionem auferent in Barchinona tabellionatus officium exercere". As of this order, an exam was established to be able to access the notarial office in the city. Alfonso III, in the General Courts of Monzón of 1289, ordered that notaries be examined by the prominent men of each place and also by other notaries in office, an order that was valid for all kingdoms. Together with the exam, this early legislation also contains an age limit. In Catalonia, it varied between 22 and 25 years (in the *Costums de Tortosa* it is set at 25 years old) (Bono, 1982, pp. 212-221). The candidate had to be a well-behaved man, of *integra fama*, according to the terminology of *Ars Notariae*. Apart from this condition, he had to be lay and Christian. José Bono states that this condition is found mainly in Aragon and Catalonia.

We suggest a finishing date for this first stage of the evolution of the Catalan notary coinciding with a very important moment in this history. However, Durán Cañameras established a different periodization by which the first stage would extend until 1276, in what he termed "The feudal public notary"; with the second stage extending between 1276 and 1500, under the label "The cities" (Durán, 1955, pp. 73-115). These two periods are conditioned by other historical events, but a certain arbitrariness may be found in their delimitation given how, for example, both are defined by the king's role in the organization of the notary. Also, feudal notaries are talked about in the second period, but feudal lords granted public scribes even at the end of the 13th century. The problem

detected in Durán's work is a certain lack of systematization of data and an ambiguous interpretation of this data, together with a remarkable absence of the concept *auctoritas*, which is fundamental for the understanding of notarial concessions and the gradual implementation of public notaries throughout the 13th century. Indeed, the clergymen and lay feudal lords that granted notaries to parishes did so by their own authority, and in the first period established in this article the king also granted notaries to parishes, but also to cities and villages like Puigcerdà in 1264¹⁷, although in these cases the city of the concession coincides with that of the ownership of the office. In contrast, in the case of Perpinyà the concession is directly to a public notary, and the city is the owner of the notary office (Tréton, 2007). Given the data on these concessions, and their showing an increasing importance of the king's role in the implementation of the public notary throughout the territory, it seems that the periodization suggested by Durán does not correspond with reality and it is better to place the change of period in one of the king's most forceful interventions upon the organization of public notary.

2. From 1281: the definitive implementation of the public notary

The increasing presence of the monarch over the 13th century culminated with an intervention that marked the relation between the ecclesiastical estate and the crown regarding the notaries. King Peter the Great noticed that the relation between the notarial institution and the Church was too close, approximating almost a monopoly, despite previous monarchs' notarial concessions to some parishes and monasteries. This was in the context of a consolidation of royal power, reinforced by the implementation of Roman law and manifested in the crown's acquisition of certain royalties which, up until that moment, had not been in its hands. One such royalty was precisely the notary. For this reason, the royal notary spread as a royalty toward the end of the 13th century and the beginning of the 14th, not without facing difficulties that resulted in confrontations between the king and the Church, among others (Carreras pp. 316-330; Ferrer 1995). The king wanted to control the appointment of notaries as well as the notarial concessions based on his public authority (Piñol, 2015).

Within this context, in 1281 a project known as *projecte Besalú* was passed. It was named after its developer Ramon de Besalú, and its aim was to regulate the public scribes by order of Peter the Great (Conde, 1988). According to the

¹⁷ Arxiu Comarcal de la Cerdanya (hereafter ACCE), parch. 10, 1264 July 19th.

document *Ordinatio facta Barchinone super scribanias tocius terre (...)*, parish priests acting as notaries would need authorisation from the king. The monarch was clearly aware that throughout Catalan territory there was already a huge number of notaries linked to parishes and that their priests were, in turn, the public notaries of each place. The document kept the custom by which the parish was in charge of the notary and its management, although from a methodological point of view, each case needs to be studied in an individual and careful way. The local casuistry is very wide, varied and changing over time, because the original idea that the priest acted directly as a notary was not always kept, and it is likely that he would sometimes delegate to another clergyman or even to a lay public notary with royal authority. This issue arises precisely in the project of Besalú, which also clarified who had to be the notary in each place and under which conditions. For example, it refers to the income generated by each notary as a criterion to determine the management of each office, while these income could also condition the lay or religious character of the manager of each office. This document is key to understanding later events regarding priests who were local notaries. In the case of the parish of Ulldemolins, in Tarragona(Conde, 1988, pp. 44-46)¹⁸, the king appointed

Guilelmus de Torrentibus, rector ecclesie de Occulo Molendinorum ex nunc pro se et successoribus suis rectoribus ipsius ecclesie habeat in perpetuo auctoritatem conficiendi per se vel per substitutos publica instrumenta et quaslibet alias scripturas publicas.

This designation indicates that the instruments written by the priest had to include the date “regnante dominio rege Petro sui regiminis anno tali” and the notary’s subscription had to indicate that the priest was “notarii publici de Occulo Molendinorum, auctoritate domini regis”. Rafael Conde extracts this information from a chancery register where, with different dates within 1281, similar documents were written, with the concession of Ulldemolins as the model for the rest. Thus, this concession and appointment belongs to the notaries of the *Muntanyes de Prades*, an administrative unit in the county of Prades, and this is how we have notice of the notarial concessions of Cornudella, Prades, l’Aleixar, Monral, La Mussara, Siurana, Arbolí, Albarca, La Febró, Vilanova and Capafonts. These notaries were granted to each parish priest, whose names are included in the document. In the same date the notaries from La Morera, Vinaixa, Vilosell and Vimbodí were granted in the

¹⁸ Doc. II.1281 March 5th. Lleida.

same way. And on different days in January 1282 notaries were granted in Barberà, Porrera, Balaguer (it is not stated whether this notary was granted to the priest), Almenara and Juneda. On the 6th of July 1282, the notaries from the diocese of Urgell were granted, as were those of Tarragona, Barcelona, Girona, Lleida, Vic and Tortosa on the 17th of July of the same year (Conde, 1988, pp. 46-47)¹⁹.

All these concessions were the result of a research designed by Ramon de Besalú and accomplished by the *veguers* from the Catalan territory by order of the king. By means of the aforementioned concessions, he began to return the notaries to the parishes that already had them *ab antiquo* but which had no certainty of a privilege, donation or official approval clearly establishing their property. The king recognised these parishes' right to the property of their assigned notaries, but from that moment on he would be the one to grant them under the conditions marked by the revision project, with the main consequence, among others, being that all the notaries, even those of parishes, would be of royal concession. Another question was the appointment of the notary, who in the case of small offices could be the priest himself, but were lay public notaries appointed by royal authority in the bigger ones, which generated more earnings.

In this way, we see how the intervention of the monarch was key in this second period of the history of the Catalan public notary, both in notarial organization and practice. This led to a confrontation with the Church, manifested in the prohibition of clergymen notaries (*pragmaticae* of James II of 1302 and 1312), culminating in major confrontations with the bishop of Girona in the last third of the 14th century (Ferrer, 1977). These are just two examples of many that can be found throughout the 14th century, and increasingly in the 15th century with the apparition of general or local rules aimed at improving the organization of notaries. To all of this we should add the creation of chambers of notaries, which also regulated the access to the profession in each place. The first *collegium notariorum* in Catalonia was in Cervera, which was created in 1348 upon a royal privilege granted by king Peter the III (García 1944, p. 176; Llobet 2005).

Despite king Peter the Great's movements to gain control over the notary, the relation between the Church and the notarial institution was still not over. The historiography still pairs clergy and culture to indicate that in certain places the parish priest was the local notary because of his cultural level. This relation

¹⁹ Doc. III. 1282 July 6th. Ponts; doc. IV.1282 July 17th. Lleida.

between written culture and clergy appears in the following statement by Félix Durán:

In the feudal period –before 1276 according to this author–, the notary was often the priest himself, which was mainly due to the clergy's status as almost the only custodian of the written art and, furthermore, the fact that many parishes effected feudal lordship over the villages; or due to the fact that they obtained the notary by means of a royal concession and, in other cases, by a simple prescription (Durán, 1955, pp. 75-76).

This consideration needs to be reviewed because, while it is true that clergymen had a higher literacy level than other collectives, this condition is not directly related to their obtaining of notarial rights after the second half of the 12th century, as we have seen. In the concession of the notary of Manresa, but also in the documents from the *Besalú Project*, there appears the expression *ab antiquo*. That is, there was a document writing tradition among the members of the clergy, mainly to do with private documents. In the case of Vic in 1155, the concession of the notary went to a canon who, in turn, was a writing professional in the Cathedral *scriptorium*. Can we speak of a clerical monopoly on written culture, with almost negative connotations, or should we rather focus on the graphic tradition of clergymen to understand that, for years, they had had the function of writing private documents?

With good judgement, José Bono does not refer to the fact that clergymen were the ones writing the documents on the merit of being able to write, and rather stresses the *auctoritas* of the king or the feudal lords –lay or ecclesiastical– to appoint notaries and grant notary offices, either in parishes or in other institutions (Bono, 1982, pp. 128-130). Either way, many notaries were in ecclesiastical hands, which does not mean that the notary exercising the notarial activity was ecclesiastic. To understand this situation, still present in the 14th century despite the rulings of James II in the first two years of the century, we can turn to the work of María José Azevedo Santos. In this paper she analyses examples of clergymen that acted as notaries in Portugal in the 11th and 12th centuries, by the end of which an increase in the access of laymen to written culture is observed (Azevedo, 1988). This is unlike the case of Verona, where the notary public is associated with laity from its beginnings in the 12th century, despite the existence of a powerful canonical school and another monastic school outside of the city (Giuliano, 1931, pp. 1-34). On the contrary, a recent study by Cristina Cunha indicates that the existence of a monastic school could contribute to the formation of the monastic *scriptori* that still wrote documents at the end of the 13th century, when public notaries already existed in the case of

Portugal (Cunha, 2019). Although the historiography about public notaries reflects on these questions and provides data like that which we have just collected, we can still find statements like the following: “Many of the priests had a good knowledge of Latin, the language used on deeds, and that is why they were appropriate for this post (notary)” (Gironella, 2019, p. 32). The author refers to the notary of the village of Marzà, in Girona, whose first notary is known of as early as 1303, and was held by a clergyman as the beneficiary of the parish. The town notary was in the hands of the parish, which was served by two *domeries* (a typical institution in Old Catalonia, similar to a rector, although the management was simply distributed among several clergymen – *domers* – a word that comes from Latin *hebdomadarius*). The notary of this town was granted to a layman in 1345, and the right to appoint notaries was held by the abbot of the monastery of Sant Pere de Rodes, who was the feudal lord of the town.

This second period shows an evolution of the notarial institution from different perspectives, with the clearest being the organization of notaries and the appointment of lay notaries by royal authority to hold offices owned by the church. Notaries were organized into chambers that aimed to guarantee that the access to the profession was determined by means of exams. In Barcelona, we find an example of this exam requisite for the appointment of the notary. In 1278, Peter the Great indicated to the city bailiff that public deeds could only be formalized in the city by notaries “(...) qui noviter a nobis habebant auctoritatem et concessionem auderent in Barchinona tabellionatus officium exercere”. Based on this order, an exam was established to access the notarial profession in the city. And Alfonso III, in the General Courts of Monzón in 1289, ordered notaries to be tested by the masters of each place and by other acting notaries, which was valid in all kingdoms except for Mallorca, as it was separate from the other kingdoms between 1276-1343. This testing process became more and more complex and several royal regulations followed the example of Barcelona throughout the 14th century, with the notable example of the privilege granted by James II in 1301, which gave the town power over notarial exams. Also, Peter the Ceremonious was forced to intervene against some notaries accessing the profession without exams at the beginning of his reign in 1336, in what has been called the Privilege of Gandesa, from 1337. The *Liber examinationis notariorum civitatis Barchinone* is of prime importance regarding the notarial exams in Barcelona, as it was a register of public notaries who had taken these exams between 1348 and 1385, with the aim of controlling the public notaries of Barcelona. Similar books are preserved from the 16th century, with a few from the 17th century, although more volumes may have

existed in some continuous form. The data in the *Liber* refers to the constitution of the tribunal, the taking of the test, and the concession of the licence to carry out notarial activities (Fernández - Günzberg - Hernando, 1992).

Before closing on the role of exams with regard to the access to the notarial profession, it is important to highlight the role of notarial colleges in this task. From the moment of their creation, they acquired an increasingly direct control over notarial exams. The definitive regulation of the role of colleges regarding this question did not come until the General Courts of Monzón in 1585, when this custom became an obligation (Günzberg, 2005).

The third period, extending well beyond the Middle Ages, begins in 1736 with the imposition of the laws of the Crown of Castile to the entire Crown of Aragon, including Catalonia. This imposition is one of the consequences of the Bourbon occupation of the Principality of Catalonia and that was the point after which parish priests were definitively banned from acting as notaries. Still, a prerogative or privilege was established by which parish priests could receive testaments in places lacking a notary, which has prevailed up until 2009. In 1862 the Organic Law of Spanish Notary (*Ley Orgánica del Notariado Español*) was passed, which still today regulates many aspects of the institution.

3. Documents and research

We have observed a certain ambiguity within the bibliography in addressing the origins of the notary in Catalonia, but this may be addressed with the following reflections. The casuistry is very wide and diverse, and careful attention is required in obtaining more information about the implementation process of Catalan public notary. Still, there is no room for talk of imprecision regarding the documents generated by notaries and collected in notarial registers, as well as the collections of parchments preserved in some archives. These documents and registers allow us to analyse the evolution of the figure of the notary in each place, by carefully examining the notarial subscriptions that indicate the authority under which every notary acted, and they also give an insight into notarial activity, which is crucial for our purposes (Laffont 1991).

The 13th century was a key moment for the definitive implementation of the *instrumentum publicum* by means of the advances in writing techniques among the notarial instruments contained in the Bologna notarial doctrine. We have already mentioned these documents and the earliest preserved notarial registers, but we ought to consider the first signs of the existence of these books in Catalan territory. There is the case of a small sheet found in the Episcopal Archives of Vic (Ginebra, 2011). According to the research by Rafael Ginebra,

this fragment, a sheet folded in half (200 x 155 mm), belonged to a quarter-sized manual. It has two holes indicating that it was part of a notebook which was sewn together. The piece has small losses in the lower part, and it has been affected by insects. The importance of the fragment is that it registers a total of 29 documents dated between the 17th of July and the 2nd of August of 1221. Both the dates and the amount of documents clearly indicate the arrival of the notarial writing system following the legal doctrine renovated in Bologna, which had already appeared in the first Genoese notarial register written by Giovanni Scriba from 1154, spanning about ten years with more than a thousand notes of contracts (Chiaudano - Moresco, 1935). The author of the fragment from Vic is probably the notary Andreu Salmúnia, whom we have mentioned when referring to the development of this notary or *escrivania comuna* in Vic in the first years after the concession of the office to canon Raimon de Lió. This is shown in the similar way of writing contracts of this fragment and in this notary's first notarial manual from the years 1230-1233 (Ginebra, 1995; 1998). For example, the notes start with a pilcrow, which was a fairly generalized tendency in the notary of Vic, but the notes are not separated by lines, which is common to most Catalan notaries. After the pilcrow, the registers start with the names of the grantors, except in a few cases starting with the form *ego* or *quod ego*, or with their respective plural forms. The names of the testimonies appear after a line break and the date is only indicated when there is a change of day, without any graphic indication or decoration, as usually happens in many Catalan notarial protocols. Notarial diplomatic notes, like the *traditio chartae* and the *ferma*, are the same that we also find in other offices, even though in the latter case, instead of two diagonal lines over the grantors' names, we find a kind of letter H which is also found in registers of this scribe beyond the 13th century and in the first manual of the notary of the parish of Siurana, in the diocese of Tarragona. However, in the first manual of the notary of the parish of Alcover in Tarragona, there is no sign of the *ferma*, which constitutes further evidence of the local casuistry also in relation to the daily practice in notaries.

The archive of the *Seu* in Manresa also has a fragment from the years 1222-1223 and another from 1224-1255, which seems to be linked to it (Pons 1993, p. 31-33; Torras 1988, pp. 13-29; Torras 1992, pp. 17-20; Torras; Masats; Valdenebro; Virós 1993). They both have the format of a sheet and are formed with folded bifolia. These fragments should, in any case, be considered as the first signs of a notarial transition towards a new system of document writing, which was very different from that of the previous century. Nonetheless, the first examples of notarial registers kept in Catalan archives correspond to the

aforementioned cases of Alcover ('Manual d'Alcover', 1989, p. 163)²⁰ and Siurana (Baiges, 2021)²¹, along with the one of Vic from 1230-1233. The former has a total of 350 instruments written in 19 sheets, dated between the 24th of August 1228 and the 1st of August 1229; and the one from Siurana has a total of 650 documents spanning from the 26th of June 1229 to the 23th of October 1239, covering 50 sheets, some of which are very poorly preserved. Both are quarter-sizes, like the fragment from Vic that we have mentioned earlier. However, the book from that same office dated between 1230 and 1233 has a size of a full sheet and its volume and characteristics make it a very important piece. This does not in the least detract any importance from the documents from Tarragona and, indeed, the book from Siurana belongs to the parish of the last Muslim bastion in Catalonia, conquered in 1153, which indicates the early arrival of the Bologna notarial customs in a small parish from Tarragona.

The book from Vic was written by the notary Andreu Salmúnia, successor of the first public notary Ramon de Lió, who was eventually replaced by another canon in 1234, Pere d'Eres (Ginebra, 1988, pp. 14-15). It has a size of a full sheet, and it has a total of 206 sheets registering 3.308 contracts, which reflects a rich notarial activity in this office within a period of 3 years (from the 4th of September 1230 to the 3rd of December 1233) (Ginebra, 1988, pp. 19-24).

These copies are the first steps of a long path encompassing the rest of the medieval centuries and beyond. All these registers reflect the notarial activity of hundreds of notaries that worked in local offices, many of them dependant on parishes, with others linked to feudal lords or to the monarch. They all compiled the daily economic and social life of the places where they were found. Consequently, the registers include countless documental typologies, with some being compiled in special books, mainly in *libri testamentorum*, which were very common in most offices. But some special books appeared for the compilation of contracts such as orders, bills of exchange, notices, and commercial insurances (Piñol, 2018). These special books appear especially in important commercial centres such as Barcelona, where 15th century notaries even specialized in certain types of contracts, like Antoni Vilanova with his *Liber commendarum* (1439-1469) (Del Treppo, p. 30). Also regarding order and insurances books, we have to highlight the works of the notaries Joan Nadal,

²⁰ Arxiu Històric Arxidiocesà de Tarragona (hereafter AHAT), Notarials Alcover, n. 1 (1229-1230).

²¹ AHAT, Notarials Siurana, n. 1 (1239-1239).

with two books²²; Arnau Lledó²³, Bernat Nadal²⁴ and Tomás de Bellmunt²⁵, with three books each; and Bernat Sans²⁶, with one book. These examples reflect different types of documents which, in turn, show the economic importance of Barcelona at the end of the 14th century and the first third of the 15th.

Additionally, we must underline certain special books also found in Catalan archives which are unique, in some cases. This is the case of the *libri iudeorum*, which can be found in several different places (Girona, Castelló d'Empúries, Santa Coloma de Queralt, Valls, Falset, l'Aleixar, Puigcerdà...). They are registers from Jewish communities, although notaries were the same for the Christian population. Another is the *libri extraneorum*²⁷, a kind of notarial protocol typical of the public notary of the city of Puigcerdà which, being exclusive to this office, deserve special attention. It is a group of 378 books dated between 1260 and 1500. They do not have special characteristics, since they have the same aspect as other notarial books from Puigcerdà. The difference lies in the fact that they register contracts in which one or both parties are from outside of Puigcerdà; hence the title *extraneorum*. This nomenclature is coetaneous and can already be found in the opening records that include the name of the notaries working on each book. In these records the starting date of each book also appears, which, at least in the earliest, is usually the same date in which the two notaries of the city started their work. The royal privilege of 1264 stipulated and regulated the election procedure of local notaries²⁸. In this office, we also find normal notarial books (called *libri firmitatis*, debt books, testament books, *libri iudeorum*...). There is also the *liber boaciorum* and the *liber panneriorum*, both dated from 1281 and related to sales contracts and orders of animals (especially sheep and cows) and cloth. The former is unique within Catalan notaries, whereas four copies of the latter can be found in the city of Valls, dated between 1323 and 1335²⁹.

²² Arxiu Històric de Protocols de Barcelona (hereafter AHPB) 54/83 (1388-1384); 54/84 (1420-1430).

²³ AHPB 51/13 (1394-1404); 51/31 (1403-1413); 51/32 (1407-1417)

²⁴ AHPB 58/169 (1393-1397); 58/170 (1397-1403); 58/171 (1404-1410)

²⁵ AHPB 79/36 (1402-1406); 79/37 (1406-1414); 79/38 (1414-1417)

²⁶ AHPB 87/18 (1428-1430)

²⁷ The first book compiles contracts dated between the 24th of June of 1260 and the 6th of February of 1261., 107 S1.

²⁸ ACCE parch. 10, 1264 July 19th. Privilege by James I through which he grants a public notary to the city of Puigcerdà, which could in turn appoint two notaries every year.

²⁹ AHAT, Valls 60 (1323); 21(1324-1325); 61(1330-1331); 62(1334-1355).

In relation to the books from Puigcerdà, we have to say that similar copies can be found in the notary office of Castelló d'Empúries, under the name *libri extra villam*³⁰, which share many features. The books from Castelló deserve careful analysis, since local notaries also worked for the local lord, the count of Empúries, and the documentation registered in these books shows a wide range of local and foreign grantors, contracts, products and objects of transaction.

* * *

This consideration concludes our review of the Catalan notary, its history, and some questions that still call for attention. With this, we wish to insist on the need of correctly reviewing bibliography, because publications on this topic have not always been clear enough. We can also state that, despite the usefulness of the first publications about the Catalan public notary for presenting the topic and beginning its research, the information they give is partial. That is why an exhaustive revision of this bibliography is needed to increase the information it covers, with the help of Catalonia's rich notarial archives. This close review can allow a revision of certain statements that historiography has made and that, with just a close analysis of notarial books, can be improved, reinterpreted or, even, revoked. We wish to close by referencing Elizabeth Comuzzi, who, in her doctoral thesis about the economy and demography of Puigcerdà, has been able to draw on notarial registers to contribute new information about the development of the notarial institution in this Catalan town, which was a very important economic centre in the Middle Ages (Comuzzi, 2020). This author gives an earlier date for the presence of public notaries in the town, before the first notarial register in 1260 and, of course, before the royal privilege of 1264 that grants the public notary to the city. Research about the Catalan notary needs articles such as this one, in order to provide new information about the local notarial institutions. Such information might allow for the construction of a history of the Catalan notary in the Middle Ages which, as we have seen, is of great complexity.

³⁰ Arxiu Històric de Girona (hereafter AHG) notaries Castelló d'Empúries.

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