

# Old Legal Institutions. Beating the Bounds

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**A**S PART of a much ampler study, which highlights the research conducted on the history of ancient Romanian legal institutions, the discussion regarding the wager of law<sup>1</sup> or compurgation represents an excellent opportunity for examining the types of legal evidence used in former times. Its beauty resides in the special procedure that was applied, every gesture evincing a practice learned from generation to generation, appreciated and scrupulously respected. A special institution that emerges as a subcategory of the compurgators—perambulators or boundary witnesses—shows how estate boundaries were confirmed and how the plots of land were demarcated. Like nowadays, back then land was the most valuable asset, and it was natural that it should have aroused fierce disputes amongst its potential owners. In these cases, the institution of perambulation, also known as processioning or beating the bounds proved its efficiency.

## Perambulation<sup>2</sup>

**B**OUNDARY DRAWING was one of the oldest legal traditions of the Romanian people. Since land—always the most valuable asset—was the subject of disputes, it was natural that its ownership should be controversial. Before it could be owned, however, it had to be demarcated into plots, over which ownership rights could be exercised. Following the boundary ascertainment or the measurements of plots, previous bounds were confirmed by various markers and property deeds, or other estate boundaries were drawn. In these cases, perambulators were used. They differed from the other types of compurgators in terms of the specific tasks they performed, related to setting boundaries/borders. They were usually accompanied by the *ispravnic*<sup>3</sup> or the deputy prefect of the territory under dispute. These *ispravnic*s were appointed from among the older dignitaries, who were familiar with the territory and the laws (“Cîrstea took again 12 boyars and the perambulator Stan from Cepturele (...); the monks from Sneagov brought 12 boyars and Vornic Radul as a perambulator...”).<sup>4</sup>

In most cases, the setting of boundaries around land plots over which two or more persons exercised their ownership rights or which they wanted to own ended up in lit-

igation. To establish the truth, perambulators were needed, so this evidentiary means was used in almost all the lawsuits involving the setting of boundaries. As shown above, the *ispravnic* was present at the drawing of boundaries. This may be accounted by a notion that was typical of feudal society, according to which the ruler had condominium<sup>5</sup> with the landowners over the entire territory of the country, which meant that the voivode had to be informed of any change affecting these boundaries.

Oath swearing with a swath of land over one's head was a means of offering proof used in perambulations in Moldavia. The procedure was as follows: two elders placed a swath of land over their heads "and sometimes confessing, with their souls, upon a book of curses, they would show, from boundary marker to boundary marker, where the dividing border had lain. The Grand Logothete would direct, in some cases, the *ispravnic* of the land as to how he should resolve the boundary-setting disputes between the bands of freeholders, by resorting to this procedure."<sup>6</sup>

Oath-giving with a bag or with sacks filled with earth upon one's shoulders or in one's lap was practiced in Wallachia for determining the boundaries where documents were not sufficient proof in that regard. In a court resolution it was stated: "we gathered priests and old yeomen from the surroundings (...) and carrying a bag of earth on our backs, we went where they showed us the road they had followed, also placing markers along the way." In other documents it is written: "he swore an oath with earth-filled pouches."<sup>7</sup> As these two forms of the perambulation institution are more peculiar, we will analyze them separately.

In most of the legal disputes in which they were used, perambulators were listed by the ruler in royal letters indicating the trial terms, and they represented just one party to the trial. Examples supporting the above are many. We will mention a few, namely: the list of perambulators issued by Voivode Vlad on 10 August 1532, which specified the witnesses and the term—"due date on Saint Paraskevi's Day"<sup>8</sup>; the list of perambulators issued by Voivode Mircea for Vladul in Micești, in the years 1549–1550: "Here are the witnesses of Vladul from Micești: from Ciumești, Roman and Stan and Rădivoie and Micul and Costea; from Tucsobești, Stoian and Barbul and Oprea and Șerban and Oprișca; from Lăpușani, Dragomir; from Petrești, Darciul. And due date on Saint Paraskevi's Day. *Ispravnic*, Vîrjoghe the gatekeeper..."<sup>9</sup> The same ruler issued a royal charter listing the perambulators for Stan Bîrs in Micești: "from Virăș, Stănilav; from Tămășești, Oancea; from Negreni, Dragomir and Beleț; from Micești, Ion; from Cimești, Roman and Micul; from Băilești, Sava; from Nucșoara, Balea; from Stănești, Tatul; from Lihăcești, Milea and Cernat. Due date at the birth of John, on Saint Peter's Day. And Ganea the gatekeeper as a perambulator..."<sup>10</sup> The document of 25 September 1520, whereby Neagoe Basarab reinforced the ownership of Cârstea and his brother Dan over the village Straja, after a suit against the villagers from Grădiștea, says: "Thus my Lordship gave to the above-written Cârstea 12 boyars, to testify, and Ispán Tarcsa of Zătreatani, as a perambulator, to investigate, by their souls, and set meerstones in place..."<sup>11</sup> The document of 3 November 1520, whereby the same Voivode Neagoe Basarab confirmed the ownership of Nucet Monastery over an estate in Găleşești, states that "and they drew the boundaries with 12 boyars and Mihnea the bailiff as a perambulator."<sup>12</sup> There were cases when perambulators were assigned to both parties to the trial.<sup>13</sup> However, because

they were appointed by the voivode from among the ruling class, perambulators sided with the latter every time. There were cases when the voivode himself told the perambulators in favor of whom they should lay out the boundaries. By way of example, in the trial of 4 November 1626, Voivode Alexandru ordered a perambulator to choose Lady Grăjdana's side from Berceni, towards Ispán Alexe: "so that he will be authorized, under the charter my Lordship has issued, to be a perambulator and decide on the estate from the village Berciani, to choose the land plot of Lady Grăjdana towards Aleexe..."<sup>14</sup> In almost none of these litigations did the court find for the peasants who defended their property against the feudal landowners.

The duties of perambulators were to examine the documents and to consult the statements made by the locals or those who knew the cause of the dispute, so they perambulated the bounds to identify and check the boundary markers.

Trials involving the use of perambulators were amongst the most numerous. The documents we have examined confirm this. In Wallachia, during the 13<sup>th</sup>–15<sup>th</sup> centuries, in seven out of the twenty-eight cases investigated, recourse was made to perambulators. In the 16<sup>th</sup> century, perambulators were used in 189 out of the 474 trials studied. In the 18<sup>th</sup> century, perambulators appeared in 162 out of the 358 trials investigated. In Moldavia, between the 14<sup>th</sup> and the 17<sup>th</sup> centuries, 236 out of the 491 trials studied and investigated resorted to perambulators. The documents above describe the application for and the manner in which boundary drawing was conducted. Since the most numerous examples regarding the use of perambulators come from Moldavia, judging by the documents reflecting this, making use of and reference to border markers, we realize the thoroughness and seriousness of such trials. Thus, in 15 cases, the boundary markers mentioned include fountains, springs in 7 cases, forests in 18 cases, beechwood in 14 cases, meerstones in 18 cases, meadows in 7 cases, and in 58 cases various trees are mentioned (5 ash trees, 4 apple trees, 2 pear trees, 7 poplars, 30 oaks, 6 elms, 2 linden). It should be noted that in 20 cases these trees were marked with different signs, aurochs in particular. These markers were the general rule for determining and establishing the estate bounds. The proof by perambulators<sup>15</sup> was also used for delineating the royal demesne, as well as the country's borders.

An example evincing this is the perambulation Neagoe Basarab ordered on 9 June 1520, confirming the settlement made with John Zápolya, Voivode of Transylvania, which had established the border between Transylvania and Wallachia. For this processioning or ascertainment of boundaries, the Transylvanian voivode appointed a number of eight bounders: "Cândreș Ianoș and Cînda Lațco from Răchitova, Sărăcin Freanți from Mujina, Zlaști Petru and Tuștea Micleuș from Rîul Bărbat, Iacov from Mățești, Stanciul and Iancul from Sătcili," while the voivode of Wallachia designated ten perambulating boyars, namely "Ban Stanciul, Spatharios Neagoe, the brother of Radul, Chamberlain Stanciul, Logothete Radul, Chamberlain Albul with his son Stoica, Chamberlain Dan, Logothete Socol and Chamberlain Bran." The aforementioned gathered at Morîșor on the Jiu plain and "established the mountain boundaries between those two countries." The document issued in Tirgoviște also mentions a total of 10 witnesses, who were present at this processioning.<sup>16</sup>

There were trials where 24, 36, 48 and even as many as 150 perambulators were used.<sup>17</sup> Even in these cases, the trials were settled in favor and in the interests of the power holders.

Although the proof by perambulators was almost always used in favor of the boyars, since the oath-swearers were nobles in some cases,<sup>18</sup> the documents show that perambulators came from almost all walks of life. Of all the documents that reflect the use of perambulators in Moldavia, there is a total of 44 cases in which perambulators were good elders who “determine and swear for the bounds,” while in 15 cases perambulators were elected from among the town elders, in 9 trials the role of perambulators was performed by great boyars and officials, and in 12 cases by royal servants. Although boyars were always careful to protect their interests in matters of land ownership, there were cases in which they lost the disputes, especially where the other parties to the trials were monasteries or churches. In the vast majority of such litigations, perambulators sided with the monastery or the church because the latter always found witnesses to decide in their favor.<sup>19</sup>

Although we have only come across one case, it appears that perambulators and the *ispravnic* were rewarded for what they did. The payment for the processioning was covered by the one who brought the perambulators. This theory is demonstrated by a document of 18 December 1628, issued at Vădeni, whereby Gabăr, a former burgrave, undertook to return to the freeholders (*măzeși*) the documents he had received from them on the occasion of their dispute over the pond of Gemenele. This document says that “I, Gabăr, who was once a burgrave, hereby confess, with this letter of mine, that I had a complaint against the said man, Gligorașco Ureche, about the pond of Gemenele. Although I brought a perambulator who beat the bounds and had us swear at the fair in Huș before the priest of Huș with 24 good men. And I gave the perambulator a good mare and the logothete a horse and the oath-swearers half a barrel of wine of Huș and a bag of flour weighing three *merțe* and these victuals were reckoned by the royal servants and Vlasie the surveyor and the priest.”<sup>20</sup>

### Perambulators testifying with a swath of land on their heads or with earth-filled shoulder bags

**L**and, one of the reasons why people have waged wars throughout time, was considered a deity in days of yore. The general belief was that the one who called for the help of the land, in various disputes or circumstances, had to make a promise, and if he failed to comply with it, the deity would seek vengeance by casting disease upon him and his family. The setting of boundaries for delineating land ownership generated a series of multifarious laws and customs. One of these customs entailed determining the bounds of an area by using perambulators, who testified with a swath of land on their heads, in Moldavia, and perambulators carrying earth-filled shoulder bags, in Wallachia. As we shall see, this custom was also used in Transylvania. By placing a swath of land on one’s head or carrying a shoulder bag filled with soil, a perambulator guaranteed with his body the truth of what he asseverated and by the oath he

took he attested, warranting with his family, that his statements were true, for otherwise he and his family would endure the ordeals caused by the revenge of the land. The swath of land overhead also had the symbolic meaning of the pit where the perjurer risked being buried.

The owners of neighboring estates acquired by inheritance, purchase, or in other ways, who did not agree upon the boundaries as the markers had not been sufficiently well set or had weathered out in time, sought to settle such disputes peacefully. In this respect, they looked for the elderly neighbors who knew the landscape and who testified under oath in church, showing what they knew about the metes and bounds. Then, placing a swath of land on their heads or carrying earth-filled shoulder bags, they indicated, in the field, where they knew the older boundary markers were. Although there were cases in which they overlapped, one should not mistake perambulators for “manufactured” witnesses for boundary disputes. This was a custom in the Romanian lands whereby for the establishment of the bounds of a private holding or the borders of a country, children aged up to 12 years old were included in judicially mandated perambulations, and they were whacked by the boundary stones to remember for the rest of their lives the place where they had been beaten and, implicitly, the borders of the country or of the estate. In subsequent disputes concerning boundary disagreements that might have appeared, they were heard as witnesses in court, confirming, through their testimony, the investigation and deposition made by the perambulators.<sup>21</sup>

Moldavia: a definition of perambulators testifying with a swath of land on their heads would be as follows: “It goes without saying that only the good elders, men of honor, could be summoned to a boundary dispute on which the litigants’ property depended. But the people’s distrust of their fellow men was always great and indefatigable and that is why bounders took (a.n.) a great oath... (a document of 14 July 1780: “they were enjoined to give their testimony and accepted to swear with their hands on the Cross, on the Holy Gospel and with lit candles).”<sup>22</sup> In many documents regarding perambulations of the 15<sup>th</sup>, 16<sup>th</sup> and 17<sup>th</sup> centuries, there occurs a symbolic form of oath swearing, for those who submitted it “testified to the bounds of an estate by swearing on their souls and with a swath of land on their heads.”<sup>23</sup> Such an oath was discovered by B. P. Haşdeu in the report of a processioning committee from 1610: “Merciful Lord, we wish to let Your Highness and all Your Highness’ Council that we have received the honorable letter Your Highness has sent us, giving us news that we have been summoned by Your Highness’ faithful boyar Vornic Ureche to decide in Petricani, with monks from Agapia, on a boundary strip towards their village of Jugăneşti, not long, quite short. His Worship Vornic Ureche says that the place belongs to the Petriceni, the monks from Agapia say it was theirs, they allowed the good people and elders amongst the yeomen perambulate the bounds, namely Vasile from Urecheni and Pătruş with the bailiff there, who had sold, he and his relatives, that village of Jugăreşti to the Agapeni and they invited also Vornic Ureche and the Agapeni, they swore the great oath, how they would give their souls and where the old bounds lay, the new bounds should also lie now. They swore before all the people, those who were there, and they went where the older bounds lay and where they knew with their souls.”

The disputes concerning estates were heard by the ruler in the *divan*. If the evidence for the trial was sufficient or if the documents based on which a ruling could be issued existed, the voivode found for the party that could bring this evidence. Most often, however, there was no such evidence. In these circumstances, it was necessary that an investigation should be conducted on site. The voivode would appoint one or several boyar officers (surveyors), who walked the bounds, gathered the yeomen around and looked for witnesses. The litigants were asked if they had letters or charters with the boundary markers. If they did, the boundaries were drawn with the help of the yeomen. If they did not, they resorted to perambulators with swaths of land on their heads, who would testify before the boyar surveyors, the yeomen and the parties involved in the trial, guaranteeing with their heads the truth of their testimonies; then the boyar surveyors notified the ruler about the results of the on-site investigation. The latter concluded the trial with a ruling, deciding on the basis of what the perambulating witnesses with swaths of land on their heads had asseverated or, depending on the case, on how the yeomen had determined the bounds after the known markers. There were cases when the witnesses refused to place the swaths of land onto their heads and swear an oath, knowing that the established boundaries did not coincide with the bounds of old: “there were the good men and elders and the royal servants and the priests and the deacons and wanting to put the swaths of land onto their heads, to say, pledging their souls, where the boundary of that fallow lay and where it had been decided in the days of Voivode Radu; and those people would not put the swaths of land onto their heads and said justly...” (a document of June 28 1675, Iași).<sup>24</sup>

Most of the time, oath giving was strengthened by a book of curses, as demonstrated by a document dated 28 June 1765, found in the collections of the Iași County Directorate of the National Archives, the Register of the Seaca Hermitage: “and if we should try any manner of unjustified craftiness, we shall incur all anathema, and the full curse, as the book shows; given this terrible curse, our souls were terror-stricken, and since we were foreign to that estate we neither thought nor leaned on one side or the other, but only did justice, as we had heard from our elders, and we mentioned and we knew where the boundaries lay, we took the book and put it on our chest and put earth on our shoulders and we set off along the boundary and all the others followed us.”

Wallachia: Beating the bounds involved a procedure similar to that used in Moldavia, with the difference that the oath-swearers did not put swaths of land onto their heads, but filled their bags with earth, carrying them on their shoulders, and “testifying upon their souls.” Like in Moldavia, the proceedings of a boundary dispute started with an application that was filed with the royal chancery, for marking the boundaries around an estate. The ruler instructed the boyar surveyors to investigate the case by going to the site. Here were called the parties to the trial, the yeomen from the surrounding villages, or the other neighbors. If the parties could not present documents or if they presented them but the deeds did not clearly evince the positioning of the holding or estate, the boyar surveyors started beating the bounds with the help of perambulators with earth-filled bags on their shoulders. In the end, the boyar surveyors informed the ruler about the latter’s testimonies, and the voivode ruled and passed judgment. With the



voivode's ruling, the boyar surveyors travelled once again to the site, where, in the presence of the parties to the trial, they proceeded to definitively mark the boundaries with the same perambulators with earth-filled bags on their shoulders. This time, however, the bounds were marked with mounds of earth, piles of stones, ashes under the rocks, sawed down or branded trees, all these markers being recorded in the ownership title of the person who had won the lawsuit.

Oath-giving with a swath of land on one's head was also known in Transylvania, being a well-preserved custom that was usually applied in perambulations. Estate boundaries were marked after the witnesses swore the oath "barefoot, unbelted, bareheaded, with earth on their heads, they swore the oath and showed it." "When the kinging enfeoffed someone, the vassal swore an oath, taking earth from the four corners and pledging allegiance, which, if he failed to keep, would incur the Lord's punishment against him and his descendants, up to the fourth degree of kinship." Another example is the document<sup>25</sup> whereby on 13 June 1354, the Chapter of Oradea attested the submission of an oath regarding the bounds beating for the estate Lipou: "they swore barefoot, unbelted, putting earth onto their heads, as they were bound to (*iuxta regni consuetudinem pedibus discalciatis, cingulis resolutis, terra super caput posita, iurassent*)." The oaths included an invocation of the earth: "let it not bear a perjurer alive, and after death, let it not receive him in its bosom, but throw him out."<sup>26</sup> Here we once again notice the existence of curses, which became effective in the case of false testimonies.

We need to clarify one aspect related to the institution of perambulators in Transylvania. Although this form of oaths is attributed to the Hungarians and the Saxons on the Transylvanian territory, as regards the origin of the institution, we cannot agree that the practice belonged to these nationalities exclusively. Given that the Romanians were under occupation, we consider that this custom was taken over and adapted, perhaps according to the social condition of the parties. We say this because it is hard to believe, given the form of the oath and the manner in which it was sworn, that the Hungarian nobility might have used it. Moreover, they did not inherit the land, they did not purchase it, but conquered it and they received their ownership rights from their leaders, according to their ranks. Marking the boundaries of the estates they received was carried out in keeping with a Romanian custom, found among and assimilated from the people they had conquered.

Returning to the general form of the oath with a swath of land on one's head or an earth-filled bag on one's shoulders, we should note the solemn form in which this oath was sworn. The symbolic act of placing a swath of land on one's head or carrying an earth-filled bag on one's shoulders was done right on the estate or the land strip that was subject to the dispute, before the boyar surveyors, the parties involved and their neighbors. The perambulators took upon themselves the responsibility of the truth they told, everything being made in solemn form and under the threat of curses. A document dated 14 July 1780 shows that "they were enjoined to confess and accepted and swore with their hands on the Holy Gospel with lit candles and they put them out in the water, saying that if it was not as shown above, then their whole kin should be put out." Perambulators would put the swath of land on their heads or the earth-filled bags on their shoulders at the site, and would walk, ahead of everyone else, the bounds of what they knew as the old boundary, and from marker to marker ("from pole to

pole, from stone to stone, from anthill to anthill, from scored tree to scored tree”), they would stop and say “here lay the old bounds, as I knew them.”



## Notes

1. Iosif Florin Moldovan, *Originea și evoluția instituției jurnătorilor la români* (Dej: Editura Texte, 2007).
2. The Romanian expression for perambulators or “boundary witnesses,” *jurnătorii hotarnici* comes from *hotar*—a dividing line that separates one country from another, one property from another, or which marks off the boundaries of an estate. Here it refers to those who were entrusted with marking off the boundaries; see also I. Aurel Candrea & Gheorghe Adamescu, *Dicționarul enciclopedic ilustrat* (București: Editura Cartea Românească, 1931), 587.
3. Head of the administration and the police in a county. Administrator, intendant, bailiff; see also Candrea & Adamescu, *Dicționarul enciclopedic*, 626.
4. *Documenta Romaniae Historica*, B. Țara Românească (Bucharest: Editura Academiei, 1972), doc. no. 208, 402–403 (hereinafter *Documenta*). This was the boundary setting for the estate of Rătești, following the lawsuit filed by Cârstea and his sons against Galbenul. The first hearing was resolved with 6 perambulators, but Galbenul complained about the forged demarcation, so there were two other lawsuits, each with 12 boyars and other stewards.
5. The joint exercise, by two or more countries, of state power over one and the same territory. Here this refers to the joint exercise of the ownership right by the ruler and by the rightful landowner.
6. Valentin Georgescu & Ovid Sachelarie, *Judecata domnească în Țara Românească, 1611-1831*. Part II, *Procedura de judecată* (Bucharest: Ed. Academiei, 1982), 197–198.
7. Georgescu & Sachelarie, *Judecata domnească*, 197–198.
8. *Documenta Romaniae Historica*, B. Țara Românească, vol. III (Bucharest: Ed. Academiei, 1975), doc. no. 131, 206.
9. *Documenta Romaniae Historica*, B. Țara Românească, vol. IV (Bucharest: Ed. Academiei, 1981), doc. no. 268, 317.
10. *Documenta*, vol. IV, doc. no. 269, 318.
11. *Documenta Romaniae Historica*, B. Țara Românească, vol. II (Bucharest: Ed. Academiei, 1972), doc. no. 200, 389.
12. *Documenta*, vol. II, doc. no. 201, 391.
13. In a document issued by the royal chancery of Voivode Alexandru Mircea on 7 November 1570, a lawsuit was settled by the ruler who assigned the perambulators to both parties: 6 oath-helpers to the monastery and 6 oath-helpers to the plaintiff, “to draw it up and set the boundaries thereof”—*Documente privind Istoria României*, vol. III, (Bucharest: Ed. Academiei R.S.R., 1952) doc. 441, 384–385. In 1576, Voivode Alexandru Mircea gave a boyar and the plaintiff 6 jurors each. In 1580, in a dispute between a monastery and a boyar, Voivode Mihnea Turcitul gave each of them 6 perambulators: “and thus I ruled and they put up the signs...” *Documenta*, B. Țara Românească, vol. XI (Bucharest: Ed. Academiei R.S.R., 1975), doc. no. 20, 28–29. In another trial, of 28 December 1593, Michael the Brave heard a case between Manea and Oprea, on the one hand, and Sas, on the other hand, for a water course with a watermill. The voivode gave them four perambulators “to draw it up and to settle the case between them... but Manea and Oprea should be assisted by 2 people and Sas another 2 people...”



14. *Documenta Romaniae Historica*, B. Țara Românească, vol. XXI (Bucharest: Ed. Academiei R.S.R., 1965), doc. no. 155, 291–292.
15. On 17 March 1534, Voivode Vlad Vintilă reconfirmed the boundaries around the town of Gherghița, “as the royal estate was set by 12 boyars...”—published in *Documenta*, vol. II, doc. 154, XX, 154–156. Michael the Brave stated in the deed of 6 September 1598 that he had set the boundaries of 22 villages, which he had purchased before coming to the throne, “with a perambulator and 12 boyars”—published in *Documenta*, vol. XI, doc. 314, 421–429.
16. *Documenta*, vol. II, doc. 194, 375–379.
17. 150 perambulators were used to mark off the boundaries between the estates of landowners from Rumcenii and the village of Poienari in 1570. The oath-helpers were assigned by Voivode Alexandru Mircea. In the document it is shown that the 150 oath-helpers “were the yeomen, the good elders from the area, and they set the boundaries where the ancient boundaries had lain ... since days of yore, since the old men had settled in that place...”—as reflected in the document issued by the chancery of Voivode Alexandru Mircea, on 1 May 1570, published in *Documenta*, vol. III, doc. 408, XLIII, 354–355.
18. *Documenta*, vol. II, doc. 23, 60: “50 boyars draw the boundaries of the Văideni estate”; doc. 38, 84: “12 boyars draw the boundaries of the Andolie estate”; doc. 105, 208–215: “12 boyars drawing the boundaries for each village”; doc. 165, 322: “50 boyars draw the boundaries of the Secăreni village”; doc. 203, 392–394: “12 boyars draw the boundaries for the boyar Baldovin, estates at Balta Neagră and Floreni”; doc. 241, 453: “12 boyars draw the boundaries of land plots in Negrălești and Necșești”; *Documenta*, vol. III, doc. 61, 104–105: “48 boyars draw the boundaries of the estate for Ivașco...”; *Documenta*, vol. IV, doc. 147, 183: “24 boyars draw the boundaries of the Plăviceni estate”; *Documenta*, vol. V, doc. 129, 143: “6 boyars draw the boundaries of the Drăgoești estate”; *Documenta* vol. VII, doc. 186, 246 (12 boyars); doc. 254, 347 (12 boyars); doc. 232, 315–318 (24 boyars).
19. *Documenta*, vol. I, doc. 13, 223: “4 boyars draw the waterway boundaries for the Monastery of Cozia”; doc. 236, 384: “4 boyars and 12 boyars draw the boundaries for the Monastery of Tismana”; *Documenta*, vol. II, doc. 131, 260–264: “12 boyars draw the boundaries for Dealul Monastery, the estate of Alexeni”; doc. 134, 269: “12 boyars draw the boundaries for the Monastery of Snagov, around estates and vineyards”; doc. 201 390: “12 boyars draw the boundaries for the Monastery of Nucet, an estate in Gălăsești”; *Documenta*, vol. III, doc. 23, 42: “12 boyars draw the boundaries for the Monastery of Corbul, around estates to the west of the Town...”; doc. 33, 57: “12 boyars draw the boundaries for the Monastery of Vrabia, around estates given by Dragomir Spătar...”; doc. 66, 112: “12 boyars draw the boundaries for the Monastery of Arges, around an estate in Corb and Domnești; doc. 156, 249–253: “... boundary drawing for the Monastery of Cutlumuz...”; doc. 197, 331: “set the boundaries around several estates for the Monastery of Buzău.”
20. *Documenta Romaniae Historica* A. Moldova, vol. XIX (Bucharest: Ed. Academiei, 1969), doc. 453, 623.
21. We shall exemplify this by reference to the boundary drawing for the Monastery of Solca. For drawing its boundaries, the monks brought in good elders, in particular one called Negrescu Dascălu: “... and this Negrescu recounted that in days of yore, when the former Grand Chamberlain ruled, the Calafindeci had entered a dispute over these boundaries with the monks from Solca. And as Preda went out, together with the Igumen of Solca, Parteni and with Daniil, the latter of whom was to become later Bishop of Roman and Vanara the Pro-igumen and with other monks, and they straddled the boundaries and it was shown where the bounds lay, and of those men, who were taken to the boundaries then, only Negrescu was said to be a child, and they grabbed him by the hair, showing him the signs so that he would

remember them. So we did not trust him and his memory, he who put the swath of land on his head, as the custom went, and we proceeded with walking the bounds...” , Dumitru D. Mototolescu, *Junământul cu brazda în cap întrebuințat la hotărnicii în dreptul vechiu românesc* (Bucharest: Ed. Cartea Românească, 1922)

22. Mototolescu, *Junământul*, 5.
23. According to a document from 1642, “... we hereby confess upon our souls and with a swath of land on our heads, before God and before Your Highness, Merciful Lord” (Mototolescu, *Junământul*, 5).
24. Mototolescu, *Junământul*, 8.
25. *Documenta Romaniae Historica C. Transilvania*, vol. X (Bucharest: Ed. Academiei, 1977), doc. 262, 272.
26. Heinrich von Wlislöck, *Hohenkultur der Magyaren* (Globus, LXII, 1892), 273 qtd. in Mototolescu, *Junământul*, 17.

### **Abstract**

#### Old Legal Institutions. Beating the Bounds

The wager of law represents an excellent opportunity for examining the types of legal evidence used in former times. A special institution that emerges as a subcategory of the compurgators—perambulators or boundary witnesses—shows how estate boundaries were confirmed and how the plots of land were demarcated. Like nowadays, back then land was the most valuable asset, and it was natural that it should have aroused fierce disputes amongst its potential owners. In these cases, the institution of perambulation, also known as processioning or beating the bounds, proved its efficiency. The manner in which it was enforced—from wearing a swath of land on one’s head, to carrying a bag filled with earth on one’s shoulders, to squabbles by the boundary markers—proves the importance with which this institution was invested, also attested by the numerous documents in which it is described.

### **Keywords**

legal institutions, perambulation, beating the bounds, processioning