Testaments as *Historical* Documents

Papers from the 17th Congress of the Commission Internationale de Diplomatique

INSTITUTET FÖR
RÄTTSHISTORISK FORSKNING
GRUNDAT AV GUSTAV OCH CARIN OLIN
The Olin Foundation for Legal History

STOCKHOLM 2025

ISBN 978-91-86645-22-9
ISSN 0534-2724

Publisher
The Institute for Legal History
Founded by Gustav & Carin Olin
BOX 2298, 103 17 Stockholm
e-post: info@olinfoundation.com
www.olinfoundation.com

Order & Distribution
Jure AB. Artillerigatan 67
114 45 Stockholm
TEL + 46 8 662 00 80
e-post: order@jure.se
www.jure.se

Editors
Claes Gejrot, Kurt Villads Jensen,
Kirsi Salonen & Benoît-Michel Tock

Cover Picture
A Swedish original testament on parchment
dated 16 July 1299. Nils Sigridsson lists his
gifts to churches, monasteries and indivduals.
Five men are named as testamentary executors
© National Archives, Stockholm (SDHK 1840)
– PHOTO: *National Archives*

Graphic Design & Illustrations
Pablo Sandoval

Picture Editor
Baltasar Aguirre

Printing & Binding
Tallinna Raamatutrükikoja OÜ, *Tallinn*

The depicted medal of Johan Stiernhöök, engraved by C. M.
Mellgren, was made on behalf of the Swedish Academy in 1837

RÄTTSHISTORISKA STUDIER

Band 33

Testaments as *Historical* Documents

Papers from the 17th Congress of the Commission Internationale de Diplomatique

Preface

Editors:
Claes Gejrot, Kurt Villads Jensen,
Kirsi Salonen & Benoît-Michel Tock

This volume assembles papers presented at the 17th Congress of the *Commission internationale de diplomatique* (CID). The congress – *Testaments as Historical Documents* – was organised in Stockholm on 20–22 September 2023 by the CID in close co-operation with the Centre for Medieval Studies (Stockholm University) and the Swedish National Archives.

Today, a written will or testament[1] is the accepted legal form for persons expressing their wishes as to how their property is to be distributed after their death. The practice of making a will seems to be in use more or less all over the world, and it has been so for a very long time. The concept of a testament is universal; the CID with its members at this meeting chose to focus on the European Middle Ages and the early modern period. Twenty-seven papers were presented from different angles and perspectives and they are all published in this volume.

The days in Stockholm proved that the testament as a document can be used as a basis for scientific studies in many ways. The CID wishes to promote studies on the form of the written acts, their elaboration and their use, and it is evident from the articles in this book that diplomatics and all kinds of formal aspects involved in the writing of wills are central questions. It is also quite natural that many of the articles treat and compare a variety of legal procedures and implications. Testaments can vary in form and content even in neighbouring countries and regions, and a number of geographical differences can be seen in this volume; there are as well some fundamental recurring similarities.

The subjects treated in the book are many and varied. Some articles treat testaments of noblemen, others the work of public notaries who composed testaments for others but also for themselves. Still others dis-

1 In the English articles of the book, the terms "will" and "testament" will generally be used, unless otherwise specified, without intending any real difference in meaning between them.

cuss pilgrims' wills (sometimes of an illegal nature) issued by members of religious orders. Women's testaments in Denmark and parts of the German Empire are investigated, as are royal testaments in Portugal, England, France, and elsewhere. Several articles focus on specific regions, for instance Scandinavia, Wales, the Asturias, Catalonia, Portugal, the Czech lands, some German towns, and the border regions of Germanic and Slavic areas. The testamentary practices at the comital court in Flanders and Hainaut also enter into focus.

Furthermore, a testament can be a tool for understanding individual persons and everyday life in all layers of society. The wills issued by the rich and powerful can be revealing, but testaments preserved from ordinary farmers or burghers can be just as interesting and rewarding. For instance, we learn how the lives of Swedish servants can be studied through medieval testaments, and they can also be used as a tool to understand gender differences and mortality rates. On an individual level, we come to learn how a bishop of Valencia drew up his informative will in 1288 with a notary present. Many other such examples are to be found in this volume.

A number of articles treat testaments in relation to diplomatics and legal aspects. We follow the development of certain *formulae* and *clausulae* that are typical of the genre, and we learn about the roles played by testamentary executors. The difference between a testament and a *donatio mortis causa* is pointed out. We meet bishops who present petitions to the pope in order to claim their rights to issue testaments. Certain types of archival depositories are also discussed: monastic, episcopal, and municipal and royal archives in various countries can be compared. We learn how testaments as legal acts transform from being memorial records of oral declarations to dispositive deeds, for instance in the Czech lands. An analysis of the diplomatic form and content of 16th-century testaments issued by Spaniards in the new colonies of America can give us insight into the practicalities in administering new and far-away territories. Much more can and should be said about the scientific results found in these articles, and a final chapter in this book presents some further thoughts and conclusions.

The Stockholm congress was made possible through funding received from *Riksbankens Jubileumsfond* and *Riksarkivarien Ingvar Anderssons fond*. We are grateful to the National Archives and its director, Karin Åström Iko, for hosting the event in Stockholm. The editors are also grateful to Christian Lovén who first suggested last wills and testaments as a theme, arising in a fruitful discussion with Stockholm medievalists in 2021. Thanks also to Fraser Miller, Erik Alm, and the members of the staff of Medieval Source Editions at the National Archives for their assistance and presentations during the congress.

The editors wish to thank *Institutet för rättshistorisk forskning* for including this volume in their series *Rättshistoriska studier*. Claes Peterson has been a very helpful contact during the process. *Riksarkivarien Ingvar Anderssons fond* has generously contributed also to the printing of this volume. A special thanks must be reserved for Robert Andrews who checked and improved the English texts and proofread the bibliographies.

Stockholm, Bergen & Strasbourg in july 2024
CLAES GEJROT, KURT VILLADS JENSEN, KIRSI SALONEN
& BENOÎT-MICHEL TOCK

Contents

Marta Calleri &
Marta Luigina Mangini

The Forms and Functions of Notaries' Wills in Central and Northern Italy

(13th–15th Centuries)

—
Associate Professor
University of Milan

—
Associate Professor
University of Milan

Abstract

DESPITE the general disregard of notaries' wills, for several reasons they are relevant and heuristically promising resources offering a largely untapped source of research topics about the notarial profession.

This paper is a first attempt to analyse these kinds of sources. In fact, notaries' wills can allow us to consider anew certain topics that are central to the history of the notarial profession – such as the practices typical of guild solidarity, which have so far been studied mainly in legislation – and also to understand some issues more specifically related to the dynamics of documentary transmission. These include the mechanisms of devolution and *post-mortem* preservation of documents produced and/or held in the course of a notary's professional activity – primarily registers of *imbreviaturae*, but also formularies and law codes.*

* The initial two paragraphs are attributed to Marta Calleri, the subsequent two to Marta Luigina Mangini.

Introduction

Among the various perspectives adopted in recent decades for the study of wills, there is no doubt that one particular category of testators has been completely overlooked: notaries, who must be studied in their double capacity as authors of legal transactions and, in the case of holographic wills,[1] as authors of documentation.[2]

Through a survey, which by no means claims to be exhaustive, we have identified more than 60 documents that allow us to study lesser-known aspects of the notarial profession.

The *terminus post quem* is necessarily the middle of the 12th century, when the legal renaissance in Italy[3] led to the rediscovery of the Roman *testamentum* and the many norms governing it, as attested to in the *Codex Justinianus*. As for the *terminus ad quem*, we have left it rather vague, since testaments are by their very nature retrospective documents. Geographically, the corpus is limited, yet significant: the regions of central-northern Italy for which records have been found are, in descending order by number of attestations, Tuscany, Lombardy, Liguria, Piedmont, and Emilia Romagna.

As far as the transmission of the documents is concerned, it should be noted that all but one of the documents found have been written using *imbreviaturae* and are structured, albeit with some slight discrepancies due to the stage of their second drafting, according to Rolandinus' guidelines in the *Flos testamentorum*, in which he establishes a sequence of six divisions – three main and necessary divisions and three causal and voluntary ones – that constitute this particular type of document.

We have found only four holographic wills:[4] the earliest is that of Rolandinus, written in 1270 in the meadow behind the chapterhouse of San Domenico, in the presence of five friars, most notably Martinus de Fano.

---

1 On this kind of will, see Calleri 2019, with further bibliography.

2 The bibliography is extensive, so we will only refer to Bartoli Langeli 1985; Bougard et al. 2005; and Rossi 2010, with the further bibliography they provide.

3 Rossi 2010.

4 Rolandinus Rodulphinus Bononiensis (1546), p. II, cap. VIII, rubr. *Quot et quae sint et quae et quot causales et voluntariae*, fol. 246r–v. See Chiodi 2002; Sinisi 2019.

It has come down to us because it was recorded by Rolandinus himself in the *Ufficio dei Memoriali*.[5]

We also have a second will for Rolandinus, as we do for the Genoese Simone Vatacii.[6] Written *in scriptis*, it was dictated in 1297,[7] 27 years after the first, and entrusted to the notary Iacobus, to whom he made an unusual declaration of trust: "Econtra vero presens testamentum meum perpetuo cum Dei gratia valliturum seu presentem bonorum meorum testamentariam providentiam scriptum vel scriptam manu Iacobi Berardi notarii michi fide ac karitate sincera convicti approbo, ratifico et confirmo et sollidam et plenissimam sine ambiguitate aliqua fidem et conscientiam adhiberi volo, iubeo et dispono."[8]

In the subscription, the notary certifies that, as was customary, the document "sigillatum fuit sigillo dicti testatoris et sigillo prioris dicti conventus".[9] While the seals today have been lost, the holes on the plica remain, as do some fragments of the strips of parchment with which the seals were attached.

In the first part of this paper, we shall look at some evidence that can shed light on the private and spiritual spheres of these professionals. In other words, an attempt will be made to grasp the human, affective, religious, and self-representational side of some members of this social class through pacts that bind together generations.

The second part will examine those elements that can instead be traced back to professional life and the sphere of identity, i.e. possible modes of transmission of the material produced and/or possessed – a notary's own registers and those of his colleagues – but also anything that might be considered an 'instrument' of the trade: forms, legal texts, etc. An attempt will also be made to understand whether, and to what extent,

---

5 Murano 2012, p. 27.

6 Genoa, State Archive, *Notai Antichi* 43, foll. 272v–273r.

7 Bertram 1990, pp. 219–224; Tamba 2000, pp. 129–131.

8 "On the contrary, I approve, ratify, and confirm that my present will, namely the present testamentary disposition of my property, by the hand of the notary Giacomo Berardi, shall always be valid by the grace of God and I will, authorise, and dispose that it bear full witness without any ambiguity", Bertram 1990, p. 223.

9 "as sealed with the seal of the said testator and the seal of the prior of the said monastery".

these notaries' choices were conditioned by the rules contained in the statutes of the various guilds.

Personal choices and direct intervention

With regard to the first aspect, while wills are primary sources for reconstructing individuals' lives, the very formalism of such documents and the use of neutral formulas confine each testator's will to a rigid scheme, making it extremely difficult to grasp its intimate aspects. Sometimes, however, a notary's departure from standard practice is indicative of the testator's direct contribution, since in almost all cases a notary who dictates his own will would leave his colleague complete freedom to employ his usual formulas.

Here are a few examples: in 1258 the notary Ugo Botario di Ventimiglia dictated his will to the notary Giovanni Amandolesio. The preamble consists of a quotation taken from Job 14:1-2 – "Cum homo, natus de muliere, brevi tempore vivens, multis miseriis subito repleatur et fugiat velut umbra"[10] – which was never used elsewhere by the notary Giovanni.[11] The only way to explain this departure from custom is to assume that the biblical passage is the preamble that Ugo, the testator, habitually used when acting as a drafter, although unfortunately there are no surviving documents from him.

Another particular form is that used by the Genoese notary Francesco de Silva (1317), who made many substantial bequests to charitable institutions. As proof of his sincere dedication to charity, he asked the notary to include in his will – besides those saints to whom the Genoese usually commend their souls – Elisabeth of Hungary, who was raised to the honours of the altars for her assistance to the poor and the sick.[12]

Further clues to individual piety can also be gleaned from burial wishes. A strong religious sentiment is reflected in the radical choice made

10 "man that is born of a woman is of few days, and full of trouble, He cometh forth like a flower, and is cut down: he fleeth also as a shadow."

11 Balletto 1985, n. 2, pp. 4–6.

12 Alvaro et al. 2018, *Appendice*, No. 2, pp. 153–155. The cult of this saint spread in Liguria thanks primarily to the work of Jacobus de Voragine (2007), pp. 925–945.

by Gherlo de Rivoli, who in his holographic testament of 1306 wrote that he wished to be buried "nudum in cilicio tantum".[13] Filial love is instead expressed by Giovanni quondam Bandini Maschionis, who in 1284 chose his parish, "ubi mei parentes sibi carnis tumulum",[14] as his last resting place. A similar desire was expressed over two centuries later (1518) by the Milanese Paolo Balsamo, who wished to rest "in sepulchro ubi adsunt cadavera genitoris et aliorum fratrum et filiorum meorum … sine aliqua pompa funerum".[15] In this case, however, we are dealing with something more than filial love, since the funerary monument is tangible proof of Balsamo's claim to 'nobility': modelled on those of the Milanese aristocracy, it consists of an aedicule and a plaque "all decorated with carvings", bearing the family coat of arms and a redundant verse inscription celebrating his lineage.

In all the documents examined, there are more or less numerous and generous bequests, piously assigned to ensure the salvation of the soul, as well as sums set aside to compensate for any unlawfully held property – *mala ablata*[16] – in addition to those set aside to cover the costs of the funeral rites and suffrage masses.

Finally, there is no shortage of legacies assigned for reasons of affection or friendship. Depending on the marital status of the notary making his will, we sometimes also find the testator returning his wife's dowry or providing one for his daughter.

The section devoted to 'afterlife accounts'[17] generally ends with records of debts to be settled and/or credits to be collected, although these are generally few, if any.

Even in such a case, however, it is the deviations from standard practice that are significant. For example, in the wills of Genoese notaries one often comes across numerous credit entries that testify to their in-

13 "naked with only a cilice", Rava 2016, No. 338, p. 476.

14 "where my parents made themselves a mound of flesh", Rava 2016, No. 88, p. 124.

15 "in the sepulchre where the corpses of my parents and other siblings and my children lie … without any funeral pomp", Milan, State Archive, *Notarile di Milano*, *Atti dei notai*, *Atti*, b. 7981, 3 September 1518.

16 Ceccarelli 2005; Gaulin et al. 2019; Giansante 2011.

17 Chiffoleau 1980.

volvement in trade and money-lending. The most striking example, but not the only one, is David da Sant'Ambrogio's will of 1264. The usual introductory formula, "[Confiteor] me debere recipere …", ends by specifying the reasons the credit was owed: "occasione accomendacium sive societatum … et occasione debitorum et mutuorum que feci et michi dare tenentur infrascripte persone".[18] This is followed by dozens and dozens of *item* that take up no less than four of the six and a half sheets that David's colleague Enrico *de Porta* needed to draft the will.[19]

Spaces for the expression of one's identity and professional choices

Out of the six parts that make up a will according to the Bolognese model adopted and developed by Rolandinus in his *Flos testamentorum*, described above, the provision of legacies does not fall among those that are strictly indispensable.[20] But it is precisely within this wide range of provisions of a stochastic and non-substantial nature that sometimes, in addition to allusions referring to relatives and friends, religious sentiment, ill-gotten goods, etc., more explicit references are made to the testator's identity and profession.

Three elements in particular can be identified from this perspective. Firstly, dispositions concerning the dressing of the deceased, funerary ceremonies, burial rites, and periodic commemorations reflect, more than any other piece of evidence, both the state of mind in which a notary making a will approached his encounter with God, as well as his desire to continue to manifest his presence and role within his family and within his social and professional context. Thus, being buried in one of

18 "I acknowledge that I must receive … on account of commercial agreements or partnerships … and on account of loans that I have provided, and that the persons described below are obliged to pay me back." On these types of documents (*accomendaciones et societates*) – the main sort of contracts used in Mediterranean trade throughout the 13th century – see Calleri – Puncuh 2002.

19 Genoa, State Archive, *Notai antichi* 21/II, foll. 169r–172r. The will was later annulled by David himself on 2 April 1266, as stated in an annotation at the bottom of the document.

20 See note 4.

the sepulchres that from the 13th century onwards were gradually reserved for deceased notaries – for example, in the cloister of the Church of St. Dominic in Genoa,[21] in the chapel of St Luke the Evangelist in Parma,[22] or at the altar dedicated to St Luke the Evangelist in the cathedral of Milan[23] – was a way of signalling one's social position *ad perpetuam memoriam* and of being able to continue to participate, if only passively, in the city's most significant liturgical practices even after one's death.

Similarly, the decision to donate part of one's estate towards helping the needy should not be taken to reflect purely personal motives, but should also be interpreted in the light of the numerous prescriptions and notarial statutes that obliged members of the guild of notaries, when drawing up a will, to recall specific obligations of solidarity and care, both towards any other members in difficulty as well as towards one's relatives.

The solidarity of the guild became tangible at particular moments in the lives of its members, and the burial rite certainly represented their culmination: in Como, for example, it was the duty of all the city's notaries to accompany a colleague "qui decedere contingerit in civitate et burgis Cumarum".[24]

The gesture of gathering around the deceased to bid him a fitting farewell to earthly life signalled to his relatives the institution's intention of extending the same support to them that was previously provided to the deceased. At the same time, it acquired a public dimension, highlighting the strength and compactness of the guild, as well as its prestige and power in the urban space.

These choices carried a strong political and self-representative significance that transcended the earthly boundaries of human life: the surviving members of the guild would pledge that their obligation to express solidarity would not end with the burial of their deceased colleague, but

21 Genoa, State Archive, *Notai antichi*, 434, fol. 1r; see Costamagna 1970, pp. 222–223, note 17.
22 Aliani 1995, pp. 145–146.
23 Liva 1979, p. 243.
24 "who happened to die in the town of Como or one of the nearby villages"; see Mangini 2007, p. 41.

would ideally be transferred "ad corpora patris, matris, fratrum, uxoris et filiorum suorum ac nepotum ex filiis",[25] as stated in the notarial statutes of Verona that were drawn up during the period of Venetian rule.[26]

This transgenerational recognition took concrete form in the testamentary bequests made in favour of the guild not only by "personas plenissime confidentes de collegio",[27] but also by the notaries themselves. In Como, for example, they were required by statute to bequeath something to the institution "ut collegium profiscischatur de bono in melius",[28] taking care that nothing "destrui et consumari"[29] should be left in vain.[30]

More examples could be provided, extending both the chronological and geographical scope. But while from a functional point of view the *mortis causa* dispositions relating to funeral ceremonies, burials, periodic commemorations, and bequests for pious works reflect not only the personal experience but above all the identity and professional profile of the testator notaries, what is even clearer in this respect are the decisions concerning the material they produced and/or possessed in the course of their careers: first and foremost registers of *imbreviaturae*, but also formularies, law codes, accounting records relating to the practice of their profession, and everyday objects such as furniture for storing documents, desks, candlesticks, and inkwells.

The earliest evidence to this effect comes from Genoa and is dated 12–13 May 1157.[31] These are the preparatory notes for the drafting of the will's *imbreviatura* that the notary Giovanni, *magister* of the better-known Giovanni Scriba, dictated less than a month before his death (between 7 and 8 June of the same year).[32]

---

25 "to the bodies of [his] father, mother, brothers, wife, children, and grandchildren".
26 Sancassiani 1987, p. 74.
27 "people having full trust in the guild".
28 "for the college to go from strength to strength".
29 "be destroyed or consumed".
30 Mangini 2007, p. 564.
31 Chiaudano, Moresco 1934–1935, I, n. 174.
32 Ruzzin 2006, pp. 407–411.

Among his possessions, a "librum Institutionum"[33] of Justinian that had been lent to him by a certain Opizone from Piacenza and a "librum Quadraginta"[34] – probably the *Liber quadraginta homeliarum beati Gregorii pape* – stand out for their importance. Presumably, Giovanni wanted these manuscripts to be returned to their owners, and thus exempted them from the bequest. His estate instead included an antiphonary and "glosulas meas super Boecium et testum Marciani",[35] the latter perhaps coinciding with a manuscript witness of the *Liber legum novellarum imperatoris Marciani*, one of the books *ad codex Theodosianum pertinentes* which he bequeathed to Guglielmo Calige Palii, another pupil of his who was a judge and notary who went on to serve as chancellor of Genoa.[36]

Further interesting information about professional objects can be obtained from the *post mortem* inventories, or indirectly by reading the brief details that can be deduced from the *commissiones ad scribendum* or the subscriptions of notaries entrusted with the *imbreviaturae* of deceased colleagues.

The fact that wills represent a valid instrument for bequests and at the same time the *post-mortem* management of assets deriving from the profession's practice is also evident in notaries' statues. For example, in Bergamo in the second half of the 13th century, one of the earliest surviving notarial statutes even provided for a notary's obligation to nominate in his will – "si poterit, unum mensem antequam moriatur"[37] (and here, the sceptical reference to the future sounds truly sarcastic) – one or more colleagues suitable to "conficere suas cartulas".[38] Should a notary then find himself drafting a colleague's last will, "ei dicet et coram eo procurabit, suo posse, quod ipse statuat et ordinet in ipso testamento cui vult dimittere imbreviaturas suas."[39]

---

33 "the book of Prescriptions".
34 "the book Forty".
35 "my glosses on Boethius and Marcian's text".
36 On Guglielmo Calige Palii see Rovere 2001 and Rovere 2002.
37 "if he can, a month before he dies".
38 "draw up his papers", Scarazzini 1977, p. 117, cap. CXXXIV.
39 "to him he shall say and, as far as in his power, before him he shall decide and order in his will those to whom he wishes to leave his *imbreviaturae*", Scarazzini 1997, p. 140, cap. CCIII.

From what has been said so far, it is clear that a notary enjoyed considerable leeway in drawing up his own will.

The competent authorities (e.g. municipality, notarial college, etc.) would intervene only under certain conditions: first of all, in the event of disputes occurring for whatever reason pertaining to the management of the registers and their proceeds, or in the absence of a will, or if there was a will but it did not assign the registers to anyone.[40] Crucially, the competent body would also authorise a notary to draw up documents from his deceased colleague's register of *imbreviaturae*. Once again, this person would be appointed, firstly, by taking into account any last wishes expressed by the deceased, and secondly by selecting him from among those who were familiar with the methods of drawing up and managing the documentation used by the deceased notary during his career.[41]

One last noteworthy aspect about which notarial wills help to shed light concerns the places where the assets earned by the deceased notaries and/or the instruments they used in the profession were stored after their death, and the people responsible for storing them. As has recently been pointed out, the "geography of preservation" of notarial documents in Italy includes cases in which, more or less early on, it was made obligatory to deposit the writings in public archives,[42] alongside other cases well into the modern age in which notaries continued to exercise a personal monopoly over their records.[43]

In other areas, largely corresponding to the Po Valley and vast swathes of Tuscany, notarial wills represent an extremely effective instrument throughout the period covered by this article, since they could be adapted to the most varied requirements for the transmission of *imbreviaturae*

40 "ut aliquis idoneus notarius … ad ea confitienda et scribenda constituatur", i.e. "that a suitable notary be appointed to draw up and write the *imbreviaturae*"; see Scarazzini 1977, p. 117, cap. CXXXIV.

41 Beginning in the 13th century, legal doctrine and the prescriptions of statutory regulations increasingly came to focus precisely on these delicate steps, which could have important implications for the validity of documents. See Sarti 2002.

42 This was the case in Genoa, for example, where "already in the 12th century there must have been a place where documents drawn up by the notaries were collected and stored", Costamagna 1990, p. 7; our translation from the Italian.

43 Giorgi, Moscadelli 2014.

and all the material useful for the exercise of the ars. This can certainly be seen in the case of self-employed notaries, whose diverse clientèle represented diverse interests. Notaries also felt fully protected by the devolution of inheritance established in the wills of individual professionals and, if necessary, by the ability to find the personal details and places of business of legacies' recipients through registers that were specifically drawn up by the competent authorities.[44] But this fact can also be verified in the case of so-called specialised registers, i.e. those collecting all or part of the imbreviaturae pertaining to a single client, thus serving as a fundamental – yet at the same time 'fragile' – instrument for any attempt to regulate more or less structured lay and ecclesiastical entities.[45]

From the second half of the 13th century onwards, privileged clients, such as some of the major ecclesiastical institutions in the area under consideration, experimented with alternative solutions to ensure continuity in terms of the control and archival preservation of those documents which were necessary for the direct administration of their iura.[46]

In this period, we find numerous cases of wills in which notaries transferred their registers directly to the records offices where they had continuously worked throughout their careers. This solution, while not rendering the instrument of inheritance devolution meaningless, mitigated its more inconvenient consequences by ultimately allowing very particular clients to continue to draw autonomously and uninterruptedly on the documentation necessary to carry out their own administrative practices. This logic underlies, for example, the decision made by the famous notary and cleric Guglielmo Pagano, who in 1255 bequeathed to the cathedral chapter of Asti, in the person of one of its most influential canons, "cartularia sua … in quibus … multa instrumenta sunt abreviata pertinentia ad Astensem ecclesiam et canonicos",[47] so that "de ipsis <car-

44 Meyer 2009, pp. 227–229. For a specific example see the case of Milan; see Liva 1979, pp. 114–115.

45 Mangini 2011, pp. 59–78.

46 Mangini 2019, pp. 197–200.

47 "his records, in which there are many *imbreviaturae* pertaining to the church and canons of Asti".

tulariis> faciat quicquid facere voluerit".[48] The same thing happened in 1285, when the Milanese notary Zanebello, son of the late Pietro Antillio, who worked in the *in curia archiepiscopatus* in the years 1254–1256, ordered "in ultima sua voluntate" that his *imbreviaturae* should be entrusted to his colleague Pietro, son of the late Guglielmo *magister de Sesto*, who also worked in the archiepiscopal palace during the same period.[49] It happened again in 1340, when the Podestà of Treviso, at the request of the dean of the cathedral chapter, entrusted the records of the cleric Alberto Todeschini, the notary of the episcopal curia during the century's early years, to the priest Bartolomeo da Salimbecco, who was also an episcopal notary and the prebendary of the cathedral, to whom the deceased had left them in his will.[50]

These cases, and others that will undoubtedly emerge from as yet unpublished documentation, already make it possible to point to the will as the most effective instrument in the search for operational solutions that, without doing violence to established practices, could account for the need for institutions to exercise control over the documents drawn up by the notaries in their service.

In this respect, the transfer of these special registers of *imbreviaturae* between professionals working for the same institution was a solution that made it possible to maintain that relationship of trust between notaries and their institution which ensured control and access to the documentation drawn up by the former even after their death or the end of their employment, thus making access to the documents, and with it control practices, easy and immediate.

48 "he does whatever he wants with these registers", see Olivieri 2003, n. 142, p. 733. Other examples, also from the Piedmont area, are provided by the records of the Vercelli notary Bertolino Faldella, which contain documents pertaining to Aimone di Challant's episcopate, 1273–1303, and those of the coeval notary and canon of Asti Ambrogio Vaca. See, respectively, Olivieri 2003, n. 15, p. 473 and Fissore 2003.

49 Mangini 2011, p. 73.

50 Cagnin 2004, note 28, p. 154.

Conclusions

We believe that the application to a geographically- and chronologically-defined documentary corpus of an analysis such as the one proposed here, based on the study of the modes of transmission, contents, and forms of notaries' wills, has allowed us to explore testamentary documents from a novel perspective. In doing so, we have highlighted the wide range of intentions with which these documents were dictated – and, much more rarely, written in holographic form – by professionals, and at the same time the multiple levels of interpretation to which we can subject them.

These sources can be studied not only within the widely-explored field of religious and socio-economic history, but also on levels that are closely related to the kind of questions addressed by diplomatics.

The analysis of notarial wills therefore seems more essential than ever if we wish not only to freshly consider certain topics that are dear to the history of the notarial profession – such as the practices that were typical of guild solidarity, and which have so far been studied mainly in legislation – but also to understand some issues more specifically related to the dynamics of documentary transmission. These include the mechanisms of devolution and *post-mortem* preservation of documents produced and/or held in the course of a notary's professional activity – primarily registers of *imbreviaturae*, but also formularies and law codes.

Bibliography

Manuscripts and Printed Sources

Genoa, State Archive, *Notai Antichi* 21/II.
Genoa, State Archive, *Notai Antichi* 43.
Genoa, State Archive, *Notai Antichi* 434.
Milan, State Archive, *Notarile di Milano*, *Atti dei notai*, *Atti*, b. 7981.

Alvaro, Maria Grazia; Assini, Alfonso; Balletto, Laura; Basso, Enrico, eds (2018), *Notai genovesi in Oltremare*: *atti redatti a Caffa e in altre località del mar Nero nei secoli XIV e XV*, San Pietroburgo.

Balletto, Laura, ed. (1985), *Atti rogati a Ventimiglia da Giovanni di Amandolesio dal 1258 al 1264*, Genova.

Jacobus de Voragine / Iacopo da Varazze (2007), *Legenda aurea*, Turin.

Rolandinus Rodulphinus Bononiensis (1546), *Summa totius artis notariae*, Venetiis (rist. anast. Sala Bolognese 1977).

Literature and Abbreviations

Aliani, Antonio (1995), *Il notariato a Parma. La Matricula Collegii notariorum Parmae* (*1406–1805*), Milan.

Bartoli Langeli, Attilio, ed. (1985), *Nolens intestatus decedere. Il testamento come fonte della storia sociale e religiosa*, Perugia.

Bertram, Martin (1990), 'Bologneser Testamente. I. Die urkundliche Überlieferung', *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 70, pp. 150–233.

Bougard, François; La Rocca, Cristina; Le Jan, Régine, eds (2005), *Sauver son âme et se perpétuer. Transmission du patrimoine et mémoire au haut Moyen-Âge*, Rome.

Cagnin, Gian Paolo (2004), 'Scriba et notarius domini episcopi et sue curie. Appunti sui notai della curia vescovile (Treviso, secolo XIV)', *Chiese e notai secoli XII–XV*, Verona, pp. 149–179.

Calleri, Marta; Puncuh, Dino (2002), 'Il documento commerciale in area mediterranea', *Libri*, *documenti*, *epigrafi medievali: possibilità di studi comparativi*, eds Franco Magistrale, Corinna Drago, Paolo Fioretti, Spoleto, pp. 273–376; also in Puncuh, Dino (2006), *All'ombra della Lanterna. Cinquant'anni tra archi-*

vi e biblioteche: 1956–2006, eds Antonella Rovere, Marta Calleri, Sandra Macchiavello, Genoa, pp. 785–882.

Calleri, Marta (2019), 'Quodammodo alienum. Il testamento in scriptis di Enrico Detesalve (Genova, 21 settembre 1220)', *Scrineum Rivista* 16, pp. 169–203.

Ceccarelli, Giovanni (2005), 'L'usura nella trattatistica teologica sulle restituzioni dei male ablata (XIII–XIV secolo)', *Credito e usura fra teologia, diritto e amministrazione. Linguaggi a confronto* (sec. XII–XIV), eds Diego Quaglioni, Giacomo Todeschini, Gian Maria Varanini, Rome, pp. 3–23.

Chiaudano, Mario; Moresco, Mattia, eds (1934–1935), *Il cartolare di Giovanni Scriba* I, Turin.

Chiffoleau, Jacques (1980), *La comptabilité de l'au-delà. Les hommes, la mort et la religion dans la région d'Avignon à la fin du Moyen-Age* (*vers 1320–vers 1480*), préface de Jacques Le Goff, Rome.

Chiodi, Giovanni (2002), 'Rolandino e il testamento', *Rolandino e l'Ars Notaria da Bologna all'Europa*, ed. Giorgio Tamba, Milan, pp. 459–582.

Costamagna, Giorgio (1970), *Il notaio a Genova tra prestigio e potere*, Rome.

Costamagna, Giorgio (1990), 'La conservazione della documentazione notarile', *Archivi per la storia* 3, pp. 7–20.

Fissore, Gian Giacomo (2003), 'Iacobus Sarrachus notarius et scopolanus Astensis ecclesie: i chierici notai nella documentazione capitolare e vescovile ad Asti fra XIII e xiv secolo', *in Studi in memoria di Giorgio Costamagna*, ed. Dino Puncuh, Genova, pp. 365–414.

Gaulin, Jean-Louis; Todeschini, Giacomo, eds (2019), *Male ablata. La restitution des bien mal aquis* (*XII^e–XV^e siècle*), Rome.

Giansante, Massimo (2011), 'Male ablata. La restituzione delle usure nei testamenti bolognesi fra XIII e XIV secolo', *Rivista internazionale di diritto comune* 22, pp. 183–216.

Giorgi, Andrea; Moscadelli, Stefano (2014), 'Archivi notarili e archivi di notai. Riflessioni sulle forme di conservazione e tradizione delle carte dei notai italiani (secoli XVI–XIX)', *Il notariato nell'arco alpino. Produzione e con servazione delle carte notarili tra medioevo ed età moderna. Atti del convegno Trento*, *24–26 febbraio 2011*, eds Andrea Giorgi, Stefano Moscadelli, Diego Quaglioni, Gian Maria Varanini, Milan, pp. 19–83.

Liva, Alberto (1979), *Notariato e documento notarile a Milano dall'Alto Medioevo alla fine del Settecento*, Milan.

Mangini, Marta Luigina (2007), *Il notariato a Como. Liber Matricule Notariorum Civitatis et Episcopatus Cumarum* (*1427–1605*), Varese.

Mangini, Marta Luigina (2011), 'Le scritture duecentesche in quaterno dei notai al servizio della Chiesa ambrosiana', *Studi medievali* LII:1, pp. 31–80.

MANGINI, Marta Luigina (2019), 'Libri e munda. Considerazioni in margine a un progetto sui cartulari ecclesiastici italiani, secc. XIII–XIV', in *From Charters to Codex. Studies on Cartularies and Archival Memory in the Middle Ages*, eds Rodrigo Furtado, Marcello Moscone, Turnhout, pp. 183–210.

MEYER, Andreas (2009), 'Hereditary Laws and City Topography: On the Development of the Italian Notarial Archives in the Late Middle Ages', in *Fundamentals of Medieval and Early Modern Culture*, eds Albrecht Classen, Marilyn Sandidgepp, Berlin–New York, pp. 225–244.

MURANO, Giovanna (2012), 'Rolandino Passeggeri', in *Autographa. I.1 Giuristi, giudici e notai* (*sec. XII–XVI med.*), ed. Giovanna Murano, Bologna, pp. 27–31.

OLIVIERI, Antonio (2003), 'Per la storia dei notai chierici nel Duecento: il caso del Piemonte', in *Studi in memoria di Giorgio Costamagna*, ed. Dino Puncuh, Genova, pp. 701–738.

OLIVIERI, Antonio (2003), 'Notai del vescovo e notai per il vescovo dell'Italia centro-settentrionale in età bassomedievale. Il caso del vescovo di Vercelli Aimone di Challant (1273–1303)', in I*n uno volumine. Studi in onore di Cesare Scalon*, ed. Laura Pani, Udine, pp. 465–486.

RAVA, Eleonora (2016), «*Volens in testamento vivere*». Testamenti a Pisa, 1240–1320, ed. Attilio Bartoli Langeli, Rome.

ROSSI, Giovanni (2010), 'Il testamento nel medioevo fra dottrina giuridica e prassi', in *Margini di libertà. Testamenti femminili nel medioevo*, ed. Maria Clara Rossi, Verona, pp. 45–70.

ROSSI, Maria Clara (2010), *Margini di libertà. Testamenti femminili nel medioevo*, Verona.

ROVERE, Antonella (2001), 'L'organizzazione burocratica: uffici e documentazione', in *Genova*, *Venezia*, *il Levante nei secoli XII–XIV*. *Atti del convegno internazionale di studi*, *Genova–Venezia 10–14 marzo 2000*, eds Gherardo Ortalli, Dino Puncuh, Genoa, pp. 103–128.

ROVERE, Antonella (2002), 'Comune e documentazione', in *Comuni e memoria storica. Alle origini del comune di Genova. Atti del convegno di studi*, *Genova, 24–26 settembre 2001*, Genoa, pp. 261–298.

RUZZIN, Valentina (2006), 'Scheda n. 7 del Catalogo della mostra', *Hinc publica fides. Il notaio e l'amministrazione della giustizia. Convegno Internazionale di Studi Storici*, *Genova 8–9 ottobre 2004*, ed. Vito Piergiovanni, Milan, pp. 407–411.

SANCASSIANI, Giulio (1987), *Documenti sul notariato veronese durante il dominio veneto*, Milano.

SARTI, Nicoletta (2002), 'Publicare – exemplare – reficere. Il documento notarile nella teoria e nella prassi del secolo XIII', in *Rolandino e l'ars notaria da Bologna all'Europa. Atti del convegno internazionale*, *Bologna 9–10 ottobre 2000*, ed. Giorgio Tamba, Milan, pp. 611–665.

SCARAZZINI, Giuseppe (1977), *Statuti notarili di Bergamo*, Rome.

SINISI, Lorenzo (2019) 'Forme testamentarie e formulari notarili nell'età del diritto comune: note brevi su un lungo percorso', *Rivista di storia del diritto italiano* 92:1, pp. 5–22.

TAMBA, Giorgio (2000), Rolandino (1215–1300). *Alle origini del notariato italiano*, ed. Giorgio Tamba, Bologna.

Authors and Editors

Diego Belmonte Fernández
Associate Professor
University of Sevilla

Annika Björklund
Ph.D., Researcher
National Archives, *Stockholm*

Marie Bláhová
Professor
Charles University, *Prague*

Karl Borchardt
Professor Dr.
Monumenta Germaniae Historica, *München*

Miguel Calleja-Puerta
Associate Professor
University of Oviedo

Marta Calleri
Associate Professor
University of Milan

Olivier Canteaut
University Lecturer
École nationale des chartes, *Paris*

Mª Milagros Cárcel Ortí
Associate Professor
University of Valencia

Maria Helena da Cruz Coelho
Professor
University of Coimbra

Maria do Rosário Morujão
Assistant Professor
University of Coimbra

Maria Cristina Cunha
Associate Professor
University of Porto

Thérèse de Hemptinne
Honorary Professor Dr.
Ghent University

Els De Paermentier
Professor Dr.
Ghent University

María Luisa Domínguez-Guerrero
Associate Professor
University of Sevilla

Peter Erhart
PhD, MAS
Abbey Archives of St Gall

Guillermo Fernández Ortiz
Associate Professor
University of Oviedo

Claes Gejrot
Associate Professor
National Archives, *Stockholm*

Saul António Gomes
Associate Professor
University of Coimbra

Reinhard Härtel
Professor emeritus
University of Graz

Kurt Villads Jensen
Professor
Stockholm University

Anders Leegaard Knudsen
PhD, Editor Diplomatarium
Danicum, *Copenhagen*

Francesca Macino
Associate Professor
Sapienza University, *Rome*

Marta Luigina Mangini
Associate Professor
University of Milan

Cristina Mantegna
Associate Professor
Sapienza University, *Rome*

Mark Mersiowsky
Professor Dr.
University of Stuttgart

Janken Myrdal
Professor emeritus
University of Agricultural Sciences,
Uppsala

Maria João Oliveira e Silva
Associate Researcher
University of Porto

Daniel Piñol-Alabart
Professor
University of Barcelona

Huw Pryce
Professor emeritus
Bangor University
/ Honorary Professor
Cardiff University

Kirsi Salonen
Professor
University of Bergen

María Josefa Sanz Fuentes
Professor emerita
University of Oviedo

Ricardo Seabra
Associate Professor
Autonomous University of Lisbon

Anja Thaller
Postdoctoral research associate
University of Mannheim

Benoît-Michel Tock
Professor
University of Strasbourg

Books published in the series
RÄTTSHISTORISKA STUDIER

1. [Varia, bl.a. Nordisk rättshistorisk litteratur 1941-1949]. Lund 1951. Hft. X+346 s.
2. [Varia, bl.a. Nordisk rättshistorisk litteratur 1950-1955]. Lund 1957. Hft. LVI+360 s.
3. Åke Holmbäck på 80 årsdagen den 16 april 1969. Lund 1969. Hft. 312 s.
4. [Varia]. Lund 1974. Hft. 420 s.
5. Rättshistoriska studier, tillägnade Gösta Hasselberg vid hans avgång från ämbetet den 30 juni 1976. Lund 1977. Hft. och inb. X+400 s.
6. [Varia]. Lund 1979. Hft. 236 s.
7. [Varia]. Lund 1982. Hft. 262 s.
8. 1667 års sjölag i ett 300 årigt perspektiv. Ett rättshistoriskt symposium i Göteborg den 16-18 mars 1981. Lund 1984. Hft. VIII+218 s.
9. Den Svenska Juridikens Uppblomstring i 1600-talets politiska, kulturella och religiösa stormaktssamhälle. Föreläsningar vid ett svenskt finskt rättshistoriskt tvärvetenskapligt symposium i Uppsala 18-20 april 1983. Angered 1984. Hft. VIII + 217 s.
10. Rättshistoriska Perspektiv. En bukett uppsatser från fem decennier. Festskrift tillägnad Gerhard Hafström på hans 80 årsdag. Lund 1984. Inb. XII + 244 s.
11. [Varia]. Lund 1985. Hft. VI + 227 s.
12. Samuel von Pufendorf 1632 – 1982. Ett symposium i Lund den 15-16 januari 1982. Lund 1986. Inb. XVI+172 s.
13. Häxornas Europa 1400 – 1700. Historiska och antropologiska studier utgivna av Bengt Ankarloo och Gustav Henningsen. Lund 1987. Inb. 392 s.
14. [Varia]. Lund 1988. Inb. VIII+186 s.
15. Rechtgeschichte und Theoretische Dimension. Forschungsbeiträge eines rechtshistorischen Seminars in Stockholm im November 1986. Lund 1990. Inb. IX+169 s.
16. Högsta Domsmakten i Sverige under 200 år. Del 1. Föreläsningar vid ett internationellt symposium 16-18 maj 1989 med anledning av Högsta domstolens 200-årsjubileum. Lund 1990. Inb. XVI+290 s.
17. Högsta Domsmakten i Sverige under 200 år. Del 2. Högsta domstolen och civilrätten. Lund 1990. Inb. XII+233 s.
18. [Varia]. Lund 1992. Inb. VIII+144 s.

19. Juristische Theoriebildung und Rechtliche Einheit. Beiträge zu einem rechtshistorischen Seminar in Stockholm im September 1992. Lund 1993. Inb. X+240 s.
20. Johan Olofsson Stiernhöök. Biografi och studier 1596-1996. Lund 1996. Inb. VIII+104 s.
21. History and European Private Law Development of Common Methods and Principles. Lund 1997. Inb. XI+263 s.
22. Rättshistoria i Förändring. Olinska Stiftelsen 50 år. Ett internationellt symposium i Stockholm, den 19-21 november 1997. Lund 2002. Inb. XII+336 s.
23. Die Kodifikation und die Juristen. Ein Rechtswissenschaftliches Seminar in Stockholm 2. bis 4. Mai 2003. Stockholm 2008. Inb. 272 s.
24. Rundvandringar i Svea Hovrätts byggnader, Sture Holmberg. Stockholm 2009. Inb. 224 s.
25. Rechtswissenschaft als Juristische Doktrin. Ein Rechtshistorisches Seminar in Stockholm 29. bis 30. Mai 2009. Stockholm 2011. Inb. 352 s.
26. The Svea Court of Appeal in the Early Modern Period: Historical Reinterpretations and New Perspectives, Stockholm 2014. Inb. 448 s.
27. Suum Cuique Tribuere. Legal Contexts, Judicial Archetypes and Deep-Structures Regarding Courts of Appeal and Judiciaries from Early Modern to Late Modern Europe. Kjell Å Modéer & Martin Sunnqvist (eds.). Stockholm 2018. Inb. 336 s.
28. Den svenska förvaltningsmodellen. Redaktör Claes Peterson, Stockholm 2020. Inb. 304 s.
29. Legal History. Reflecting the Past and the Present Current Perspectives for the Future. Stockholm 2021, Inb. 384 s.
30. Lagens öga. Hovrätten över Skåne och Blekinge 1821–2021. Kjell Å Modéer och Martin Sunnqvist. Stockholm 2022, Inb. 560 s.
31. Omsorg om rättvisan: Domstolarna och domarrollen i en konstitutionell rättsstat. Ett symposium tillägnat Johan Hirschfeldt. Stockholm 2023 Inb. 152 s.
32. Rättsstatens utmaningar. Redaktörer: Marianne Dahlén och Görel Granström. Stockholm 2024, Inb. 312 s.

The Book is Published by
THE INSTITUTE FOR LEGAL HISTORY
Founded by Gustav & Carin Olin
Lilla Nygatan 19, 111 28 Stockholm
E-MAIL: info@olinfoundation.com
www.olinfoundation.com

Order & Distribution:
JURE AB, ARTILLERIGATAN 67,
114 45 STOCKHOLM
TEL: +46 8 6620080.
E-MAIL: order@jure.se
www.jure.se

What happens to the property of a deceased person? Who has the right to inheritance, and under which conditions? Who stipulates inheritance rights? These questions are as relevant nowadays as they were in the Middle Ages when the custom of making last wills spread all over the Latin West. Although the practice of making testaments became universal, forms and procedures varied considerably over time and in different regions.

The twenty-seven articles in this volume present and analyse medieval wills from various points of view. Geographically, the volume covers a large area, from Southern Europe to Scandinavia, from Ireland in the West to Eastern Europe. The contributions reveal changes over time and space and accentuate different regional patterns and particularities: the degree of orality or literacy, the social status of testators, urban versus rural, and much else. The volume also suggests the potential of testaments as historical sources for studies on ownership, social networks, legal practices, and economic resources.

www.olinfoundation.com