Public authority had always had a crucial, indeed a constitutive, relationship to scriptura publica, but the changing forms of what the twentieth century called state power over the period 1350 to 1650 had profoundly altered the ways public writing was made, consumed, and preserved in Rome. Whether through doubling jurisdictions, reforming writing practices, establishing archives, or selling notarial offices, the early modern papacy had reshaped the notarial profession and notarial documents in the course of its own consolidation as a state. We have seen what kind of working world these papal policies had created for the Capitoline notaries as they went from numerous self-employed individuals to a few privileged officeholders, but the relationship between the profession and the state was not all one way. The papacy had unquestionably extended its reach and tightened its grip on notaries, but by the late seventeenth century the venal notaries were squirming uncomfortably, and the popes were forced to look more closely at what they held in their grasp.

Against a backdrop of unprecedented questioning of nepotism and venality, the twin pillars of early modern papal government, what the notaries told the pontiffs in the course of the years 1670 to 1705, and what the pontiffs heard, led to several striking initiatives. These climaxed in a series of investigations and decrees under Pope Clement XI (1700–1721). Although the new methods of notarial policing employed under Clement signaled the state’s capacity to innovate, they also highlighted its enduring dilemmas, marking out the limits of what it was capable of changing. It is thus both for its boldness and for its timidity that we turn in this final chapter to the pontificate of Giovanni Francesco Albani.

Almost a century after Paul V, Roman notaries and notarial records found themselves again the target of a reforming state. Thanks to the pope’s personal attention
and to the industry of his officials, especially Cardinal Galeazzo Marescotti, an exhaustive dossier on the local notarial profession accumulated in the years 1702 to 1705. This remarkable collection of reports, inspections, correspondence, edicts, and inventories enables us to define much more precisely than at any previous moment who the city’s notaries were, what documents they held, and how they treated them. Although as pope Clement XI failed miserably on the international scene, he was an industrious, hands-on ruler of the city of Rome and the Papal States, especially in the first decade of his pontificate. Rather than a narrow focus on justice, he and his advisers probed a vast array of administrative, economic, and religious problems of long standing. Although they seldom resolved them, they crafted new tools of state and deployed them with a systematizing rigor that was notable in itself. Yet their shortcomings and failures are equally telling. Clement XI and his officials were undoubtedly innovators, but their unwillingness or inability to invest state resources, either legislative or pecuniary, in their vision meant that lasting solutions eluded them.

**Notaries and the Papacy, 1670–1700**

Although Clement’s signature style and commitments are unmistakable, it is not surprising to find the papacy as an institution deeply engaged with notaries in 1700. The profession, and especially the venal officeholders, had preoccupied papal officials for several decades, beginning in the early 1670s under Clement X, again in the late 1670s under Innocent XI and his activist deputy Cardinal Giovanni Battista De Luca, and yet again in the early 1690s. The papal notaries serving the major tribunals with jurisdiction over clerical as well as lay subjects had emerged from these struggles fewer in number but with larger offices and brighter financial prospects. The thirty Capitoline notaries had fared less well. It will help us to understand the condition of the profession and the background of curial reformers at the time of Albani’s election in 1700, if we look at the relations of the venal notaries and the papacy over the preceding thirty years.

In a sign that the system of venal offices was in trouble by the 1670s, notaries from two papal tribunals pleaded successfully with Clement X (1670–76) to reduce their numbers. In 1671 the pope permitted the forty-eight notaries of the Rota to reorganize as just four notarial offices, and in 1672 he agreed that the secretaries and chancellors of the Reverenda Camera Apostolica (known to contemporaries as the notaries of the Camera) could shrink their number from nine to four. Of course, fewer offices were always better for venal officeholders, because they meant less competition for business, but it must have taken serious arguments to convince the
papacy to make these reductions. Because papal notarial offices were vacabili, unlike those of the Capitoline notaries, they returned to the Datary for resale when they were vacated, thus filling the state’s coffers repeatedly over time. The more offices in circulation, the more the papal treasury had to gain. Only the notaries’ complaints that their investment was not living up to expectations, and the hard evidence of falling prices for the offices, must have induced Clement X to make these dramatic cuts. He must also have believed that, by curtailing the number, his government would make these posts attractive to investors once again. Sufficiency concerned by these requests, the pope evidently wanted to learn more, for he invited the notaries of all the city’s major tribunals to a meeting at the Quirinal Palace on 26 March 1673 to air their grievances.3

The pressures felt by venal notaries, though focused on the particular technicalities of each group’s income sources, were not confined to the notaries of the Rota or the notaries of the Camera. In 1672, the same year that their colleagues had success, twelve Capitoline notaries also petitioned to eliminate more than half of their offices.4 They proposed to cut their numbers from thirty to fourteen. Because the Capitoline offices were fully inheritable, only the investors, not the government, stood to profit when they were sold, and thus the pope could have granted their request without damage to his treasury. Yet Clement X did not agree to their proposal. Also unsuccessful, at least with Clement, was the request for a reduction from the ten notaries of the auditor of the Camera in 1675.5 They persisted, however, and in 1693 Innocent XII halved their number to five offices. By the 1690s, therefore, of all the major groups of venal notaries, only those of the Capitoline curia were still dividing business among the same number that had been in existence before the election of Clement X. The gap between their resources and that of the papal notaries had widened. Not surprisingly, therefore, during Albani’s pontificate it was the Capitoline notaries who complained most vociferously about threats to their income posed by changing documentary practices.6

In the last third of the seventeenth century at the same time that the participants in the market for venal notarial offices were complaining about its terms, venality drew criticism from other quarters. After captivating the architects of papal finances from at least the 1470s, the tide began to turn, very slowly, against the sale of curial offices. In 1680 one of the oldest venal colleges, that of the apostolic secretaries, was abolished, and in 1692 the sale of the high administrative post of clerk of the [Apostolic] Camera was prohibited, to be followed in 1698 by that of the cardinal chamberlain.7 While this left all the venal notaries, and the vast majority of other venal officeholders, untouched, it did bespeak a new atmosphere in which calls to clean up papal administration arose within the very heart of this administration.8
The reform reputation of Clement X’s successor Innocent XI (1676–89) rested in part on his high-profile adviser, the jurist Cardinal De Luca, who had led the charge against the apostolic secretaries, and in part on the most important judicial legislation since that of Paul V in 1612. Like the Borghese pope, Innocent XI directed his efforts at the courts, and thus to notaries insofar as they functioned in the judicial system. By making the iconoclast Cardinal De Luca his auditor or legal adviser and appointing him head of the standing curial committee on judicial reform that had limped along since Paul V’s era, Innocent XI had given an outspoken critic the means to effect changes in the machinery of justice.

Or so it seemed. De Luca, who published Italy’s first vernacular legal handbook and once argued that notarial documents should be written in Italian so that clients could understand them, abhorred the fractured jurisdictions of the Papal States. He believed strongly that it would be more rational to substitute uniform rules for all the privileged differences between one tribunal and another, and criticized, among other targets, what he considered the needlessly time-consuming procedures of the Capitoline court. Although resistance from his colleagues in the College of Cardinals meant that De Luca did not end up making the clean sweep that he might have wished under Innocent XI, the decrees of the late 1670s bear his distinctive imprint. They heap scorn on the “inanés circuitus” of the senator’s tribunal, for example, and require that the senator act like other judges in handling appeals cases.

In an effort to streamline justice, he reinforced the role of the cardinal prefect of the Segnatura della Giustizia to terminate conflicts over jurisdiction among the Capitoline and other courts. De Luca established a standard period of three hours for all witness interrogations, regardless of the court, and forced both papal and Capitoline notaries to charge identical fees for guardianship and inheritance instruments. Furthermore, he protected all notarial records from creditors by forbidding their seizure for debt.

De Luca’s commitment to uniformity meant that he did not differentiate among Rome’s five major tribunals, especially when setting up new procedures and criteria for vetting would-be notaries. While acknowledging the rights of the various bodies holding the privilege of creating notaries, he instituted a standard mechanism for testing aspirants. The candidate must pass an examination before senior officials of whatever college had the power to authorize notaries or before the auditor of the Camera or cardinal chamberlain. Two curial “procurators of the college” [of the Sacred Apostolic Palace] and two notaries who were venal officeholders in the city should attend and certify that the candidate had been approved. De Luca envisioned the participation of the Capitoline notaries alongside those of the four chief ecclesiastical courts; indeed, some twenty years later the Capitoline notaries’ min-
utes show them deputizing four members to conduct exams at the invitation of a prelate who was an apostolic protonotary.\textsuperscript{15} The 1679 decrees updated the old idea that notaries ought to be men of respectable family, personal probity, and professional expertise, found already in the fifteenth-century regulations, with a few nuances.\textsuperscript{16} Aspirants ought to be at least twenty-five years old (up from twenty), of legitimate (not just reputable) birth, and in good legal standing. De Luca substituted more specific knowledge for the traditional language about knowing Latin and the city laws. Young men needed to master creating instruments, and to do this, they should work for six continuous months in Rome in one of the venal notarial offices before taking the test, which he hoped would be a “true, effective, and rigorous” examination.\textsuperscript{17} These reforms, originally intended for Rome, were soon extended to the entire Papal States. De Luca articulated and perfected the logic of unifying notarial practices across competing jurisdictions that had been implicit in the reforms of Paul V and in the archive of Urban VIII, closing the circle that the popes had opened with the creation of separate tribunals for ecclesiastics three centuries earlier.

While Innocent XII (1691–1700) had no adviser of De Luca’s stature, he kept the judicial reform commission alive and cleared away a vast thicket of Roman jurisdictions by abolishing all particular tribunals in 1692.\textsuperscript{18} These were courts whose clients consisted only of members of a corporate group or institution, such as those of the guilds and the cardinal protectors. The pontiff also revived an old project of Julius II’s to unite all the Roman tribunals in a single building, purchasing the palace of Montecitorio for the use of the notaries of the papal courts. Although several magistracies remained in their former locations, by 1695 the notaries of the auditor of the Camera (or the notaries AC, as contemporary sources referred to them), of the cardinal chamberlain, and of the treasurer general had moved to the new “Gran Curia Innocenziana,” increasing the convenience and lowering the cost of justice for litigants.\textsuperscript{19} Unlike Julius II, Innocent XII seems not to have envisioned including the Capitoline curia in this initiative. The Capitoline notaries arguably made what living they could precisely because of the access offered to clients by their dispersed offices. In any case, they did not catch the eye of the reformers in the 1690s and, as far as we know, did not speak about their festering grievances until after Clement XI’s election in 1700.

Active in the Curia at De Luca’s apogee and promoted to cardinal in 1690, Giovanni Francesco Albani (1649–1721) lent a helping hand to Innocent XII in his reform projects. He was not, however, so openly “zealous” that he frightened the moderate cardinals in the 1700 conclave, the way the more senior and more severe Cardinal Galeazzo Marescotti (1627–1726) did.\textsuperscript{20} Ascending to the throne of St.
Peter, Albani showed his true inclinations by almost immediately reviving Innocent XI’s committee to relieve food shortages, the Congregation of the Sollievo, and placing Marescotti at its head.21

**Office Orders: The Investigation of 1702–1704**

The initial purpose of the Congregation of the Sollievo was to redress failures in the agricultural economy, and neither the pope nor Cardinal Marescotti had intended to use it as a forum for notarial shortcomings. Indeed, it was not so much the congregation as the cardinal himself who seemed to attract an ever-widening array of projects—groups and customs to be investigated, critiqued, and fixed—all tucked under the mantle of the Sollievo simply because that was Marescotti’s brief. Behind this proliferating portfolio, however, lay Clement XI who believed that the greatest evils never came to the ruler’s attention and who showed immense curiosity about all facets of his realm.22 He communicated frequently with Marescotti, and the two men shared a similar obsession with the minutiae of administration.

While it seems natural that preservation of documents would interest men of such tastes, in fact it may have been an accident that first brought notarial records to their attention. Just three months after Albani’s election, the municipal government of Rome suddenly decided that it wanted to create a proper archive for its own papers in the Palace of the Conservators and would evict the Archivio Capitolino in order to do so. As we shall see, this action greatly upset the Capitoline notaries, and in February 1702, during the protracted aftermath of the debacle, they invited Cardinal Marescotti to visit their notarial archive. What he saw displeased him. At about the same time, reports about troubles in the Archivio Urbano may also have been circulating in curial circles.23 By the summer of 1702 the city newsheets announced that the pope was showing a lively interest in historic documents, and wanted all archives put in good order.24 His scrutiny of the Vatican’s own holdings proved that he did not think it was just notarial archives that were deficient, but the glimpse he and Marescotti had had of the notaries’ papers made them eager to see more.

In early October 1702 Marescotti dismounted at the palace of Montecitorio and began the first formal inspection ever of the venal notarial offices, visiting the five notaries AC and then the notaries of the other tribunals lodged in the palace or nearby.25 Clement heard Marescotti’s report and by the late fall had extended his commission to all the other notaries with public offices in Rome—that is, not to private notaries but exclusively to the venal officeholders connected to specific tribunals. By 1 December it was clear that the fiction that the investigation fell under
the purview of the Sollievo was no longer useful, and six curial officials who gathered at Marescotti’s palace debated by whose authority orders to remedy defects should be issued to the notaries. Marescotti argued that it would be faster and less public if the chief magistrate of each of the relevant tribunals should have this power, but Clement disagreed with him.\textsuperscript{26} We can assume therefore that the sudden appearance of a “congregation for the inspection and reform of the city’s notarial offices and archives” was the pope’s preferred vehicle. It was under this title that the reform edict was published in March 1704, which listed the names of what was clearly an ad hoc congregation, the same men who had attended the December meeting in 1702 with the addition of only one Capitoline judge.\textsuperscript{27} The impetus for this unprecedented investigation of the local notarial profession came directly from the pope and Marescotti, assisted by curial officials very close to the pontiff. They included his auditor Gian Domenico Paracciano and his secretary for memorials Curzio Origo, the secretary of the Sollievo Silvio de Cavalierijs, the clerk of the Camera Ferdinando Nuzzi, and two curial experts on notaries, Domenico Guelfio and Felice de Grandis, who were members of the legal staff (\textit{collegio causarum}) of the Sacred Apostolic Palace.\textsuperscript{28}

Although Sixtus V’s archival legislation for the Papal States gave the contractor the right to scrutinize notarial protocols, the idea of a broad inspection dated back to 1637 when Cardinal Francesco Barberini threatened to send the Archivio Urbano staff to look for missing copies.\textsuperscript{29} While they were at it, they should also check that notaries were complying with all of Paul V’s directives. Nothing had come of this rather desperate effort to shore up the new archive, however. Though inspections were brandished again in 1643, there is no evidence that they occurred, and after the Barberini pontificate no state agency bore responsibility for policing the profession. As we saw in chapter 4, those in charge of the Archivio Urbano returned to tried and true medieval methods of enforcement—denunciations of wrongdoers enticed by monetary rewards.

Cardinal Marescotti’s novel visit to the papal notarial offices at Montecitorio in October 1702 drew not on notarial models, therefore, but on the methods pioneered in episcopal visitations. Since the Council of Trent in the mid-sixteenth century, bishops had fine-tuned the procedures used to inspect their diocesan clergy and churches, including advance questionnaires to parish priests, personal visits, detailed reports on defects, and meticulous follow-up instructions. As bishop of Tivoli in 1681, Marescotti had undertaken just such a visitation. Notably thorough, he had not neglected even the episcopal archive and chancery, issuing orders that the judicial acts he found there should be signed and that lines should be put through the blank pages in the registers.\textsuperscript{30} A nine-page questionnaire for the notaries of the
Camera before the inspection of their offices in 1702 must have drawn on precedents like these, as did the notion that Marescotti should undertake the visit in person. Applying tools crafted for ecclesiastical purposes to secular institutions became one of the hallmarks of the *zelanti* program under Clement XI. After bruiting a traditional diocesan visitation in 1701, the pope extended its techniques to new categories of subjects, including the Roman notaries and the communities of the Papal States.

The only questionnaires to come to light are those prepared for the notaries of the Camera and the notaries AC. The papal visitors wanted to know about the physical space in which the office was located, the name of the padrone of the office and the terms of his tenure, the different types of business and judicial acts that he held and how they were kept, and the number and mode of compensation of his employees. Detailed questions homed in on the writing practices of the sostituti and giovani. About those who produced instruments, for example, the inspectors asked how long they had been in this particular notarial office, and in which previous offices they had worked and for how long? Did the sostituti note in the office receipt book the instrument, the date, the name of the contracting parties, the title (type) of contract, and the amount paid on the same day that it was rogated? How long did it take them to extend the instruments “in a good hand without erasures?” Did they sign them and insert all the related documentation that had been submitted in *scriptura privata*? Within two months did they make a copy of those contracts governed by the Archivio Urbano regulations (*instrumenti perpetui*) and with their relevant insertions take these to the archive, and then note on the margin of the originals that they had been archived? The visitors interrogated the sostituti who wrote judicial acts too, asking whether they extended all the citations the same day that they received the judge’s authorization (*decreto*)?

Somewhat mysteriously, a question about whether they were paid a testone for travel when they had to leave the office was crossed out, as was one asking if they were matriculated or had been examined. Descending the hierarchy of office skills the inspectors reached even the most junior staff, the novizi, wondering if they knew Latin well enough to be able to go on in their profession and whether they wrote legibly and correctly?

The team investigating the papal notaries, Marescotti, the magistrate of the relevant tribunal, and the two curial legal experts Guelfio and De Grandis, did not confine themselves passively to collecting the written answers to their questions. They looked directly at the documents. The visitors requested to see a matrice, for example, and compared it to the final instrument to check whether it had been extended properly with the whole substance of the contract. Yet, although such attention was unprecedented, they clearly believed that they were working within
traditional parameters. The questionnaire repeatedly cited as authoritative not new directives but past legislation, in particular the 1612 reforms of Paul V and a 1681 edict on the Archivio Urbano, although several erroneous citations suggest that whoever drafted it had not yet thoroughly digested these texts. The vision of Albani and Maressotti was profoundly conservative; their predecessors had provided all the laws necessary to the proper functioning of the notariate. What was needed was simply to enforce those laws. Nothing less than meticulous research into the actual writing practices of the offices would reveal where the flaws lay, but when it did, it would be easy to see how to correct them. At the end of the vast multiyear effort, however, they discovered that some legal changes were in fact needed.

The Capitoline notaries were the first to open their doors to the papal visitors after the December decision to widen the investigation. A single notebook survives recording visits to sixteen of their thirty offices on 29, 30, and 31 December 1702 and 2 January 1703. On 30 December the inspectors, probably without Maressotti and perhaps with one of the Capitoline judges, made their way down the Corso from Piazza Colonna to Trajan’s Column with a short detour to the Trevi Fountain looking in at seven offices. The long-standing concentration of Capitoline notaries along the Corso promoted great efficiency that day; the other days they stopped in at no more than three offices. Although we lack the questionnaires that survive for the papal notaries, the inspectors made notes that indicate they were using a simplified version of the same template.

On 31 December they reached office 12 by the Arco dei Pantani near the Roman Forum, now held by Giovanni Giuseppe Novio, the son of Angelo Canini’s employee-partner Carlo, who had purchased it at Angelo’s death in 1649. The visitors reported that the office “is in a very narrow space insufficient for keeping the documents and so they are kept in the room next to it.” There was no inventory of its holdings, a deficiency they would find to be universal, but the two series of protocols, which began in 1523, and manuali were complete. They divided the records by their material form, first listing the contents of the bound volumes and then those in stitched piles (filze). Paul V’s regulations echoed in their written comments. The instruments were indeed bound, at least through 1701, though most did not bear the signature of the sostituto who had rogated them; wills were preserved in their own series, at least from 1625; the entries in the office receipt books were properly dated. Urban VIII’s legislation resounded in the notation that not all the instruments and wills had been “archiviati,” that is, they lacked the indication that their copies had been delivered to the Archivio Urbano. The unbound documents kept in filze included many types that have since disappeared. Original sentences were filed in the general filze with all the supporting documents (iura
diversa) submitted in the cases; original summonses were put in long filze. The monetary instruments known as *cedole*, which resembled modern checks, were kept in separate filze depending on whether they were issued by private individuals or by the official loan bank, the Monte di Pietà, and finally 157 still-sealed wills, the oldest dating from 1606, remained tucked out of sight in more filze. In Novio’s office, they failed to mention if or how witness depositions were kept.  

In general, the inspectors maintained the same intensity of scrutiny that they exhibited in the larger offices of the papal notaries. When visiting office 13, for example, they noted that the last two months of instruments had not yet been extended and that at least sixty instruments in office 2 still remained to be done. The specificity of these figures suggests that the general practice of the Capitoline notaries must have been to extend most of their business acts within a month, conforming to the regulation in the 1580 city statutes rather than the laxer three months permitted by Paul V’s reforms.

A later hand annotated the visit to Novio’s office, as well as to the other Capitoline offices, tersely highlighting in the broad left margin key information, like the number of protocols per year, and important deficiencies. These comments give us a good idea of what flaws most bothered the investigators. “Crammed office.” Instruments “not all extended.” “Not all delivered to the archive.” Loose instruments, presumably rogated during 1702, “not all signed or extended.” “No [separate] register for sentences.” Not surprisingly, these omissions often found their way into the congregation’s reform measures in 1704.

It was not a faceless inquiry. When the visitors could not obtain all the data they sought from the Capitoline notaries, they extracted promises to bring it later to Cardinal Marescotti. In office 4, for example, the padrone could not tell them whether any protocols in a collection that dated back to 1479 were missing or when the documents in the series of filze began. They ordered him to find all this out and send word to His Eminence. As numerous letters and petitions attest, the inspectors communicated successfully to the notaries the cardinal’s direct engagement in the investigation.

This did not lessen the pressure, of course. As the offices of the notaries of the tribunals of Ripa, Ripetta, and agriculture followed upon those of the senator in January 1703, a sense of professional anxiety must have grown. At their meeting of 23 January, despite the disastrous earthquake that had just struck the city, the Capitoline notaries hired a lawyer and chose five representatives to consult with the notaries AC and other venal notaries about how best to defend their rights. They did not confine themselves to legal action, however, but also tried persuasion. The notaries addressed an unnamed congregation with a series of “proposals” and
drafted a separate memorandum complaining about the Archivio Urbano that may also date from this period.\textsuperscript{42} The Capitoline notaries, under greater financial pressure than their papal colleagues, must have seen Marescotti’s investigation as an occasion to bring long-standing grievances to the attention of the authorities.\textsuperscript{43}

At the root of their complaints was declining demand for public copies of notarial documents. The Capitoline notaries blamed this on new legal and judicial practices that allowed clients and litigants to circumvent the high standard of proof that had been the notaries’ stock in trade since the Middle Ages. “Before the reform of Paul V of holy memory, notaries kept the instruments they rogated locked in cabinets and whoever wanted to see them paid the visura, as is the custom today outside of Rome,” they began.\textsuperscript{64} The 1612 legislation had of course compelled them to show instruments for free. However, it had not envisioned the current abuse in which young attorneys “of sharp mind and sharper memory” repeatedly visit the office, memorize the instrument, and then make a summary of it for their clients. While abolishing the fees for looking at business acts, the reforms had assumed clients would purchase at least a simple copy from the notary, but that assumption was proving unfounded. Now, the notaries were losing out on making both public copies and simple copies of the records in their protocols, and they could not charge to view them.

Compounding the damage was a new laxity on the part of judges who instead of insisting that evidence arrive in public form allowed a simple copy—or, worse, a mere reference to it—to stand in for full proof. “Litigants or their procurators come to read and reread the instrument, learning its substance, confirming the facts, and [then] they summarize it, and the casebooks of the tribunal of the auditor of the Camera are full of these.”\textsuperscript{45} The notaries blamed the judges for encouraging the abuse by going even further and decreeing that a notation in the dossier would have the same legal value as the actual document. They begged “this congregation to consider the reasonable arguments of the Capitoline notaries [and] the observance of Paul V’s legislation, to limit the excessive freedom to plunder the said instruments, and to prescribe a procedure that avoided prejudice to the said notaries against the intention of the reforms, and in addition to forbid judges to decree that a reference could substitute [for the public copy].”\textsuperscript{46} In closing, they reminded their readers of the fundamental bargain struck in 1586 when the pope made their offices venal. After all, “Sixtus V of holy memory had promised to maintain the Capitoline notaries in their earnings when he established their college.”

Their complaints about the officials of the Archivio Urbano pinpointed additional threats to the demand for their services.\textsuperscript{47} In establishing this copy archive, Urban VIII had taken care to protect the interests of the venal notaries by forbidding
archive staff from making copies of the notarial records in their custody. Anyone who consulted the Archivio Urbano and its helpful indexes would find the name of the notary and the date of the act he sought, but he had to return to that office in order to purchase the copy. Now, the Capitoline notaries charge, the archivist and his employees are ignoring these regulations and making duplicates for clients. They should confine themselves to discovering the document’s location from the catalogs and then send customers back to the Capitoline offices.

Behind the lamentations about lost revenue lay two enduring structural realities. Alone of the major tribunals, as we have seen, the Capitoline court was still functioning with its original complement of thirty venal notaries. With no reduction in their numbers, they had not been able to offset shrinking income by consolidation into fewer offices. More profoundly, it was obvious that judicial reform as the popes understood it aimed to save litigants’ money on notaries. While they doubtless also wanted to reduce the cost of lawyers, pontiffs at least since the time of Pius IV had striven to cut back on the quality and types of documentation that parties to lawsuits needed to produce in court. Simple copies were one such device, and so was the practice that the Capitoline notaries complained about in their petition, the judges’ permission to litigants to substitute a citation for the document itself. That the auditor of the prefect of the Segnatura della Giustizia was one of the culprits specifically mentioned by the Capitoline notaries on an earlier occasion suggests that far from being an “abuse,” it was yet another attempt at reform. Perhaps this explains why Marescotti paid so little attention to their complaints about their falling income. While he responded parsimoniously to their pleas for help with the Archivio Capitolino, he ignored their invocation of Sixtus V and his promise to maintain them in their earnings. The stark fact was that, although their posts were venal, since 1612 the Capitoline notarial offices had lain outside the income stream of the papal treasury, and the state had little to gain from their sale.

In May 1703 Marescotti concluded his eight months of investigations with a visit to the notaries of the Rota. He was satisfied that the picture he had of the sixty or so venal notarial offices operating in Rome was complete. By now the curial team must have been collating what it had gleaned and deciding on the specific failures to be remedied in its reform decrees, whose draft was ready by February 1704. But the pope felt that one clamorous discovery had to be addressed immediately. The inspectors had found in city notarial offices six thousand unopened wills, more than four thousand of which were on the shelves of Capitoline notaries. As we saw in chapter 3, ecclesiastical officials tended to believe that when no heir appeared to set testamentary formalities in motion, it was likely that the testator had left her or his property to the church. In June 1703 Clement XI ordered all notaries to go before
their judges and open any sealed wills in their possession dating from before 1653 without charge. Despite the fears of a frenzy of litigation, more than twenty-seven hundred sealed wills were opened in the next six months. The pope had delegated to the Archivio Urbano archivist the task of making an alphabetical index of the testators, and in the final edict he built in other safeguards to prevent such an “absurd” situation from recurring. Henceforth, notaries should open all sealed wills more than fifty years old annually in court and immediately give the names of the testators to the archivist to add to the master list in the Archivio Urbano.

By the following February, the pope had approved the decrees “of the congregation to inspect and reform the venal notaries and archives in Rome,” and they were published 13 March 1704. Although much shorter than Paul V’s legislation, like it they contained instructions common to all the notaries, twenty-six items in all, followed by special orders to the notaries of particular courts. Not surprisingly, they repeated many past injunctions, including some, like the requirement that matrici record the names of the witnesses and the substance of the contract, with a fourteenth-century pedigree. More frequently, the 1704 decrees echoed those of Paul V, as when they insisted that instruments and wills be bound every three months, that evidence submitted by the parties not be left lying in the desks of the staff, and that notaries and sostituti work for no more than one tribunal. At times they gave a fresh twist to tradition, as when they revived the term matriculation, though not its substance, using it to mean having been created a notary by proper authority. Only once did they acknowledge any shortcoming in Paul V’s reforms, which were usually cited as authoritative, and in that case they created a new kind of judicial document to replace the lengthy extractus and registra used when litigating large sums.

Nevertheless, Clement XI’s reforms did innovate in small and in large. Some changes consisted of refinements to manage information more efficiently. The office receipt book ought to have an alphabetical table of contents, and a separate register (liber accommodatorum) should list the documents in active cases that had been loaned to judges or other notaries. The manuale with its global record of the office’s judicial business must have a table of contents. Insistence that instruments in all stages from matrici to full transcriptions could not under any circumstances leave the physical premises, and that the titleholder was responsible for his workers’ negligence in this regard, reflected one of the major findings of the inspectors. Delays in extending, binding, and archiving business acts arose from the fact that sostituti either left the office’s employ without completing what they had started or took the raw materials with them to finish at home or at their next job. If the
investigators had reread some of the old edicts of the Archivio Urbano, such practices would not have come as a surprise.

The 1704 decrees did not shrink from more-novel measures however. They put the final nail in the coffin of the private notaries when they prohibited venal officeholders from accepting their instruments in their protocols. Another new feature was that for the first time the state demanded the production of inventories of the holdings in the venal offices and notarial archives. Not only did the decrees require that notaries list all their “protocols, broliardi, and certain volumes and filze of documents,” but they set up a mechanism for ensuring that this was done at once. Each week notaries had to demonstrate the progress they were making on the inventories to Cardinal Marescotti himself until they were complete. The edict also established a way to continue this practice by requiring that successors update the inventories and by designating a specific papal official to receive them and a specific body, the Congregation of the Sollievo, to punish infractions.

This unusual attention to enforcement worked, at least in 1704, and to it we owe the first collection of the inventories of the Capitoline notaries’ papers. While inventories for individual offices can sometimes be found in the notarial archives at the time when title changed hands, there was no previous government effort to view the totality of holdings. The inventories offer a snapshot of scribal capital, showing not only what kinds of writing the venal offices produced and protected but also what records had survived up to 1704. They prove that having their title free and clear made venal Capitoline notaries more diligent custodians of their patrimony than their pre-1586 predecessors, and perhaps even than their papal competitors. The inventories also highlight the dramatically differing fate of business and judicial acts after 1704, which we have already noted. Series of judicial acts both in volumes and in filze abound in the inventories with only a few insignificant lacunae. The losses of civil litigation records have been particularly heavy since then.

As a crude measure of the varying fortunes of particular offices over time, the inventories are also useful. We can trace the impact on office 13 of the loss of the business of the confraternity of the Annunziata after Giovanni Battista Ottaviani’s death in 1636, for the yearly output of protocols declines permanently. On the other hand, we see very clearly the positive effects of longevity and generational continuity. As noted in chapter 5, Angelo Canini’s tenure (1622–49) increased activity in office 12, and apart from a temporary setback when the plague struck in the 1650s, office 12 maintained its steady output under Carlo Novio and his son Giovanni Giuseppe Novio.

While the state acquired a remarkable new source of information about notarial
records from the global request for inventories, it is not clear what papal officials intended to do with it. Perhaps it reflected a style of governing under Clement XI that regarded the accumulation of data as inherently satisfying, or perhaps the pope and Marescotti thought of making inventories as performative, actions that would remind notaries of their responsibilities as curators of the papers in their offices. In any case, the policy caught on; for several decades in the eighteenth century, Clement's successors also ordered that notaries provide new inventories of their holdings.70

The 1704 decrees’ detailed attention to the staff of the venal offices displayed a less ambiguously practical attitude. By comparison to the terse, grudging references to employees in Paul V's legislation, these reforms accept the fact that they did most of the work and discuss them more than any other single topic. Marescotti’s text strikes a novel chord in declaring that notaries should treat their employees well, both in pay and in the conditions of their room and board, and in urging judges to make sure they did.71 The subtext, of course, was that wrongdoers would find it easy to suborn penniless hungry scribes. While holding to the 1612 regulation that magistrates should approve the choice of sostituti in their notaries’ offices, it allowed padroni to hire and fire lower-level staff without judicial interference. For the first time, notaries were encouraged to prefer subjects of the Papal States when they took on new workers. Family status was no longer mentioned, however, and there was a new emphasis on the quality of the employee's handwriting.72 The 1704 decrees followed those of 1679 in requiring an examination by two curial specialists, men like the inspectors Guelfio and De Grandis, from the college of the Sacred Apostolic Palace.73 With a bit more realism, however, they permitted failing candidates to retake the exam, especially on the formulary of instruments. Similarly, they anticipated what occurred in fact, that giovani and sostituti might depart without having extended all their instruments, and provided reimbursement to titleholders who went after them.74 Marescotti’s reform edict, mindful of the convenience of the notaries’ customers, gave the employees more work to do by suggesting that if they had any spare time they might copy supporting evidence submitted by litigants into the manuale rather than merely filing it.75 Finally, it smoothed the path of future inspectors by adding a rule that sostituti, giovani, and their bosses must show documents upon request.76

After the common orders followed brief specific instructions to the notaries of each of the six major tribunals, beginning with the notaries of the Camera and the notaries AC, who among other things, were reminded to wear the old fashioned zimarra da notaro both in the office and in court.77 The Capitoline notaries did not have to don the professional garb of bygone days, but they did have to muster a total of six series of records, from protocols to registers of materials out on loan, on pain of
The decrees insisted that they track down any series that was missing, and promised that their judges and the Congregation of the Sollievo would help in this effort. The reform edict directed the Capitoline notaries to create a new manuale exclusively for judicial decrees and warrants and reminded them to treat witness depositions as Paul V’s legislation had demanded. It also reiterated the long-standing protection from eviction that Capitoline notaries were supposed to enjoy. The rough notes summarizing the inspectors’ reports on the thirty offices had pinpointed fourteen items, eleven of which in the end found their way into either the general orders or these specific ones.

While the content of the 1704 decrees was a mixture of old and new, entirely new was their instrumental character as a tool for policing the notarial profession. Unlike previous reform edicts, this initiated a process of compliance. Instead of merely laying out a lengthy list of dos and don’ts, Marescotti’s team built in a series of short-term deadlines and demanded regular contact during the intervals. They set deadlines of one month to bring extended instruments and their copies to the Archivio Urbano; two months to extend all matrici of instruments; just short of three months to produce the inventories of office holdings; and four months to bind loose instruments. There was a new interactive quality between the reformers’ text and the target audience of notaries; the decrees gave the notaries specific tasks to complete and set up a way to monitor each one.

Not surprisingly, the disciplinary persona of Cardinal Marescotti loomed large in this scheme. After turning in delinquent copies at the Archivio Urbano, notaries were to deliver the archivist’s verification to Cardinal Marescotti. If an employee had left the office before extending all the instruments he had rogated, the titleholder should send his name and address to the cardinal. Notaries were to report weekly to him on their progress with the inventories. The message got through, at least to the Capitoline notaries. Petitions to the cardinal requesting extensions meant they were taking the deadlines seriously, and a list of venal notaries who had not yet delivered inventories contained no names of Capitoline titleholders. By contrast, Marescotti was less successful with the notaries of the papal courts. In a pattern that would be repeated again with the Archivio Urbano, the notaries AC, the notaries of the vicario, and the notaries of the Rota failed to complete their inventories by the deadline. The techniques that Marescotti employed were most effective when directed at the most vulnerable venal officeholders.

Behind Marescotti’s zeal lay that of his prince. Five months after the publication of the reform decrees, Clement XI’s auditor Paracciani nudged the cardinal about follow-up. Was it time for the head of each of the six tribunals to make a new inspection of his court’s notaries to see whether they were complying with the
orders? Although the pope had wanted more initial publicity for the reforms, he accepted Marescotti’s reasoning that the judges should supervise mopping up operations. A draft request to the auditor of the Camera, the treasurer general, the vicegerent (for the vicario), the deacon of the Rota, and the senator was already prepared. The cardinal himself would be responsible for those venal notaries who did not have a superior, the so-called notari nullius. Clement had given the magistrates the option of reporting to him in person or in writing, and the absence of documentation suggests that most of them may have chosen the former. Marescotti characteristically did not spare himself, ignoring the pontiff’s wish that he delegate the inspections to subordinates and submitting in October 1704 a final written report on the notari nullius.

Whatever the two-year investigation of practices in the venal offices taught the Roman notaries, it had an immediate impact on governmental officials at several levels. In December 1704 the municipality of Rome, proud feudal lord of four villages in the surrounding district, extended the Roman documentary regime to its fiefs. It ordered its local podestà to carry out yearly inspections of the notarial archives in his village and commanded village notaries to observe what were in effect the rules of the Archivio Urbano, bringing copies of specified instruments to the archive within two weeks of the contract. The exemplary character of what had happened in Rome was also demonstrated the following spring on a much wider stage. The cardinal chamberlain of the Apostolic Camera, Giovanni Battista Spinola, announced that the prefect of the archives, a curial official with jurisdiction outside Rome and Bologna, would send agents to inspect notarial offices and archives throughout the whole Papal States. Spinola emphasized too that state inspectors would be checking to see whether new notaries were properly examined, that is, according to the standards set by Cardinal De Luca’s reforms of 1679. The tools that Clement XI and Marescotti had fashioned for Rome, modified only slightly by shifting duties to local governors, were a flexible new means of policing the notarial profession. Cheaply, that is, without setting up any new organ of state, the papal government now had a means to enforce those endlessly repeated orders of the past, at least for those who would listen to its officials.

What worked for notaries and their employees who were writing for living judges and clients, however, was not necessarily suited to institutions charged with preserving notarial documents. Even before inspecting the offices, Marescotti and Clement XI knew of flaws in the two key repositories of notarial records in Rome, the Archivio Capitolino and the Archivio Urbano. Their reforms logically embraced archives as well as offices, as the very title they gave their “congregation for the inspection and reform of the city’s notarial offices and archives” indicated. To these
efforts they brought their faith in improved methods of enforcement and their enormous energy and attention to detail. The silent volumes proved to be tougher subjects than the notaries, however. The means, or vision, at Clement’s command could not quite match the material or political challenges posed by the city’s notarial archives.

Archival Disorders

The Archivio Capitolino

The trouble in the Archivio Capitolino began in June 1701, although, if they had been alert, the Capitoline notaries would have seen it coming in March when the civic governing council decided to reorganize the city archive, the Archive of the Roman People, and began looking for some space in the Palace of the Conservators. It was not until 14 June, however, that the Roman People fixed on the chamber at the back of the courtyard that they had granted to the notaries in 1614 when the Archivio Capitolino required a second room. Rights in the matter were simple enough. The civic authorities said they had given the space to the notarial archive on condition that they could reclaim it, if they wanted it for their own purposes. The Capitoline notaries protested, arguing that the government did not have enough records to warrant such a move “because the room was large and the documents of the Roman People few.” They also pointed out that the civic secretary’s office was better adapted to keeping documents from prying eyes than this room at the far end of the courtyard.

On 28 June, when the Roman People met in council, they learned that instead of handing over the keys, the notaries were planning to meet and would then give them their reply. As far as the city government was concerned, the notaries had nothing to say in the matter, and the council vowed to open the room by force if the keys were not forthcoming. In the face of their intransigence, the Capitoline notaries turned to their recently elected pope. On 8 July they chose two delegates to take a petition to Clement XI, asking that they be allowed to retain the chamber so long assigned to them for use as an archive and where they held their meetings.

The Roman People would not be put off. After a standoff of seven weeks, they gave the notarial college a week to move the contents of the courtyard room, which was filled completely with judicial records (filze di scritture et atti) of the pre-1586 Capitoline notaries. What happened next is obscure in its proceedings but not in its results. By mid-September the civic government had the keys back, but the notaries were beside themselves. Writing again to the pope, they accused municipal officials of having “violently cleared the filze of documents and acts out of the archive and
deposited them in the greatest confusion” in a small, dark hallway, “or better, rubbish heap” in the attic of the Palazzo Nuovo. They besought him to force the conservators to return the documents or to make some other provision for them, not wishing, they said, to be liable for the damage that could arise nor to have to spend their own funds to repair it.

This final point was certainly not insignificant. It must have been especially galling to be told by the Roman People not only that the college had to move out and shift the old litigation records to the attic across the piazza but also that they had to pay to make the new space suitable. Civic officials had offered no carrot, only the stick. More profoundly, they now treated a repository of documents that they themselves had established 140 years earlier as if it was worthless and its guardians a nuisance.

Clement XI’s secretaries must have passed the notaries’ complaints to Cardinal Marescotti as prefect of the Congregation of the Sollievo. In a move that undoubtedly startled papal subjects long used to dealing with subordinates, and that surely proved the old maxim “beware what you wish for,” Marescotti promised to make a personal visit to the Archivio Capitolino. And he charged the Capitoline notaries with putting the records that had been so unceremoniously dumped under the roof of the Palazzo Nuovo back in order. The notaries at once busied themselves purchasing new chests (casse) for the documents, and on orders from both the conservators and Cardinal Marescotti three months later, they voted more funds to bind loose instruments in the archive. Meanwhile, in papal circles, whatever Marescotti had seen when he visited the Archivio Capitolino had spurred sharp questions about its deficiencies, as well as those of the city’s younger but more ambitious notarial archive, the Archivio Urbano, and indeed about the preservation of old property and financial records more generally.

Laying out the problems and proposing limited solutions, a memorandum to the pope, possibly composed by Marescotti in spring 1702, defined the issues from the curial point of view. It is a telling early witness of the Albani pontificate’s distinctive preoccupation with well-kept archives, which was widely reported that summer. Safekeeping of scriptura publica might not seem as important as military security, the memorandum warned, but it was in fact equally necessary to the defense (and indeed growth) of lineages, families, charitable entities, cities, and kingdoms. The author explained that he would describe a few archival “disorders,” which, although they seemed slight on the surface, “are in reality of great consequence and for this reason, in [his] opinion, not to be dismissed, because it was well known from experience that neglecting a small spark can sometimes lead to a conflagration.”
The first “spark” attested to the thoroughness of Marescotti’s inspection of the Archivio Capitolino because the author pointed out that in many protocols the tables of contents were inaccurate. Only someone who had opened the volumes and checked specific instruments against the indexes could have made such a statement. The second, more obvious defect, “a large number of loose sheets not bound in protocols but merely tied in bunches [mazzi],” was somewhat debatable. Although no one mentioned it at the time, it had never been the policy of the Archivio Capitolino to bind the records given to its care. The initial regulations of 1562 imagined storing the protocols of deceased notaries in locked wooden drawers (cassette) inside large cupboards (armarij) but assumed they would arrive already bound. Nor for that matter did they require the archive staff to make indexes for these protocols. They were silent too on how judicial acts were to be kept. These were particularly complex because they included not only the judicial logbook or manuale, required from 1446 to be bound, but also all kinds of written evidence (iura) submitted by the parties on loose sheets of paper. Even if these had once been stitched together as filze, they could easily have shaken out over time and, indeed, might have been intentionally preserved in the bundles disdained by Marescotti on his visit.

The final, more surprising, problem was that protocols of Capitoline notaries had not been delivered to the Archivio Capitolino at all but had ended up in ecclesiastical archives. That this had happened was not news; before 1562 anyone could inherit Capitoline notarial records, including a confraternity or monastery, and papal authorities had long struggled to make religious bodies yield up their protocols. What is startling is that by the early eighteenth century curial officials knew exactly which volumes were missing and where they were. They were also newly determined to get them back.

Not a mere catalog of complaints, the memo called for specific actions to remedy the problems it diagnosed. An odd reading of the 1562 edict of the conservators at the time the Archivio Capitolino was created produced the recommendation that the Capitoline notaries be forced to make tables of contents for the old protocols and bind all loose documents. Despite some confusion about which legislation actually made the notaries responsible for the Archivio Capitolino, the pope’s adviser insisted that it was theirs and they would have to fix its deficiencies. This curial logic spelled even more trouble for the Capitoline notaries than that initially caused by the municipal government.

Although the notarial college had invited Marescotti to intervene in February 1702 after half the archive was dispossessed of its quarters, they grew increasingly despondent as the scope and costs of the cardinal’s orders broadened. In October,
five months after they voted funds to bind loose contracts, they raised their own massa contributions to two scudi a month to cover expenses already incurred and also asked the cardinal for money. ¹⁰⁷ We catch a glimpse of what they were using the money for when they empowered a paid archivist in December to set the salary of those to be hired to put the loose instruments in order before binding. ¹⁰⁸ Hardly more than a month later, however, the true dimensions of the task must have revealed that this, too, would be insufficient so they decided to contribute the labor of their own giovani. By rotation in order of seniority, each office would send one employee each week to organize the unbound documents in the Archivio Capitolino. ¹⁰⁹ Things were not going according to the plan imagined in the curial memorandum, which had suggested that, instead of opening the archive once a week, the notaries could open it twice a week with the archivist doing the organizing and indexing on the additional day.

Meanwhile, Cardinal Marescotti and his staﬀ had been researching the history of the Archivio Capitolino and the notaries’ own statutes in order to devise a fresh set of rules to govern its care in the future. On 18 December 1703 twenty Capitoline notaries listened as the eleven articles were read aloud and promptly voted to give up the archive and turn its documents over to Clement XI. ¹¹⁰ They were exasperated beyond measure by what they had been subjected to ﬁrst from the conservators, who had confiscated their room and deposited its contents “in a huge heap,” and then from Cardinal Marescotti, who had granted them only 130 scudi to do all the binding and indexing, which did not come close to covering their expenses. Because they had no wish, they said, to contradict the cardinal, they would simply surrender the Archivio Capitolino.

A petition that may well date from this period illuminates the reasons for their discontent in more detail. ¹¹¹ The archival intervention had touched more than 1,000 volumes, 471 of which had been created (with indexes) from scratch and 570 of which had received new tables of contents when they were restored and rebound. New parchment covers, glue, and the labor of binding were costly, but what had really blown the budget was the price of hiring outside experts who could read the gothic script of the fourteenth- and ﬁfteenth-century protocols, a necessity if they were to receive accurate indexes. ¹¹² The notaries estimated that, even with the help of their own giovani, they had spent 364 scudi on the task, far more than Marescotti and the civic treasury had given them. They thought it unjust that they should have to fund this from their own revenues, especially because the Archivio Capitolino earned them very little. ¹¹³ However Marescotti rejected the suggestion that the pope, or more probably the Archivio Urbano, absorb the city’s archive of pre-1586
notarial records. While insisting that it remain in the hands of the Capitoline notaries, he donated some additional funds to ease the pain.114

After completing a full inventory of the contents of the Archivio Capitolino and allowing their ailing archivist to retire, on 23 June 1705 the notaries rescinded their earlier action.115 Proudly trumpeting their achievement in making new covers for all the protocols and manuali, binding the loose documents, and creating tables of contents for volumes where they were missing, they formally took the archive back. The notaries also agreed to the eleven distasteful regulations, although these had been modified somewhat in the interim. Instead of twice a week, they would have to open the archive only once a week on Thursdays while court was in session; it was in any case a much lighter burden than that envisioned in 1562 when the new archive was expected to be open every day.116

The upbeat mood of the 1705 meeting did not erase the traumas of the preceding four years, when the Capitoline notaries endured both archival troubles and the pressures of Marescotti’s inspection and reform of office practices. Yet posterity has cause to regret deeply what the Capitoline notaries did to their oldest protocols between 1702 and 1705 and to question the wisdom of the papal government in forcing men with so little knowledge to do it. A recent scholarly examination of the fourteenth- and fifteenth-century protocols in the former Archivio Capitolino pointed out that they had been “artificially recombined at the beginning of the eighteenth century, paginated with arabic numerals, and supplied with tables of contents that do not reflect what had actually been put together.”117 The state of internal confusion in the volumes is striking. One “protocol” contains instruments scattered almost at random from various years for four different notaries, and it is far from the only one in such condition.118 On the one hand, when we compare the curial description of the disorders in the Archivio Capitolino to the protocols in their current mixed-up state, the intervention of the Capitoline notaries appears very superficial. By their own admission, they could not read the documents, so they simply bound the loose ones previously fastened in bundles, paginated everything, and gave them all new covers and fresh-looking indexes. On the other hand, however superficial, a task for a trained archivist was performed by men who were either incompetent or hasty, so it is more than likely that they made matters worse.

Confirming such pessimism is the contrast with the intact protocols of Nardo Venettini (dating from 1382 to 1428), complete with the indexes that he himself prepared.119 Venettini’s records escaped the fate of those of his colleagues because they were not in the Archivio Capitolino between 1702 and 1705 but rather enjoyed the solicitude of the Benedictines of Santa Maria Nova. Papal officials did everything
in their power to repossess Venettini’s volumes, which finally entered the Archivio Urbano in 1712.\textsuperscript{120} They were less successful with those of Antonio Scambi (dating from 1363 to 1409), supposedly stored at Sant’Angelo in Pescheria but in fact between 1706 and 1712 moved to the palace of Cardinal Carlo Colonna.\textsuperscript{121} Like Venettini’s, Scambi’s twenty-two surviving protocols, which eventually found their way back to Sant’Angelo and stayed there until sometime between 1906 and 1919, are in good condition.\textsuperscript{122} While we cannot lay all the blame for the mistreatment of documents in the Archivio Capitolino on one generation of Capitoline notaries, the fact is that notarial records left in ecclesiastical hands fared better.

In truth, it was a mistake to compel active professionals to take responsibility for what was by then a historical archive. The diffusion of the italic hand over the course of the sixteenth and seventeenth centuries had completely cut off the Capitoline notaries of 1702 no less than their customers from the writings of their pre-1500 forebears.\textsuperscript{123} To their credit, they recognized that they lacked the skills needed to make proper indexes for the old protocols, but it is not clear that all the supposedly expert help they hired to read “gothic letters” had the requisites either. No doubt, time and money pressures played their parts too. As the scale and difficulty of the job gradually emerged during 1702, the notaries asked for more money to hire outside aid, but by January 1703 they had been forced back on their own limited paleographic resources and those of their unskilled employees. The hundreds of protocols needing indexes were simply divided up among the Capitoline notaries. Giovanni Battista Jacobelli of office 26, for example, received twelve, and went to the trouble of hiring someone who could read gothic script to whom he paid thirty baiocchi per protocol.\textsuperscript{124} Because the handwriting was very difficult, however, he could not finish the tables of contents within the deadline set by Marescotti. The incentive to meet the deadline was that the notaries would be reimbursed for their expenses but would have to pay out of their own pockets if they delayed. The diligent Jacobelli did pay out of his own pocket, arguing that failing to hire someone who could understand the documents would have been a waste of time and would not have fulfilled the cardinal’s orders. But faced with a similar choice between turning the protocols around quickly at no cost and buying more expert time at their own expense, how many of his colleagues likely followed suit?

The degree of Cardinal Marescotti’s personal engagement with the notaries of the Capitoline curia and their archival problems between 1702 and 1705 was unprecedented but not unique. As we have seen, the cardinal was prodigiously diligent in all his undertakings, and his commitment was wholehearted. Clement XI and his right-hand man clearly thought that preserving notarial records, whether in archives
or in the protocols of venal officeholders, was very important. What explains the well-intentioned mischief inflicted on the Archivio Capitolino?

In part the reformers made inappropriate assumptions about a historical archive. When it came to notarial documents, these representatives of an “improving” state defined order as neatness, regularity, and completeness. Aged covers on volumes should be replaced by fresh ones, loose contracts should be bound so that all looked alike, and stray medieval protocols should be reeled into the duly authorized archive. Neatness was not wholly irrelevant to documentary preservation, of course; Marescotti and the pope were rightly horrified that a valuable estate could disappear simply because of a loose document. Nor was accessibility insignificant to them. They wanted accurate tables of contents so it would be easy to find the names of contracting parties. What they did not grasp was that the thousand or so volumes cared for by the Capitoline notaries, containing mainly acts of the fourteenth to sixteenth centuries, had become a thing of the past.

In their callous fashion, the Roman People had understood this and had abandoned the archive that owed its existence to their forebears, the patrician landowning families of Rome, for that reason. They now treated the Archivio Capitolino as if it were a private fief of the Capitoline notaries, a trivial indulgence scarcely to be tolerated. The notaries also understood its loss of relevance, and even though they continued to draw small sums from people who came in search of specific documents, they perceived that the Archivio Capitolino no longer served their material interests. The state’s bargain with notaries had always been that public writing created private value, but when it no longer did so, when it turned out to have a shelf life, were they still bound to it? The illegibility of so much of the archive broke the spell. It was time to hand over its custody to those who could read gothic script and who made their living looking after old things, not those in the business of producing writing that still had commercial power.

In part, the mischief arose from the limitations of the reformers’ own vision and means. Guided by their views of what constituted order in a state as well as a notarial archive, Clement’s officials mistakenly diagnosed a technical as a political problem. They saw their job as determining from the edicts and legislation of the past who was responsible for a defined set of tasks, and forcing them to perform them. Having figured out that in 1562 the Roman People had laid down rules for the operation of the Archivio Capitolino, the state’s job in 1702 was to make sure that those same rules were obeyed. In fact, the reformers permitted some changes in the regulations, alterations imposed by later laws emanating from pope or city or from the notarial statutes in the seventeenth century. The principle, and the method of
governing informed by the principle, remained the same: clarify responsibility and compel performance. Despite the evidence before them, Marescotti and his aides assumed that the tasks had not changed and that those to whom duties had once been given were still capable of executing them. Of course, this policy had the added advantage of not costing the state very much.

The Archivio Urbano

If the Archivio Capitolino posed material challenges that the reformers could not quite fathom, the failures of the Archivio Urbano were in fact political, and anyone zealous for reform should have foreseen them. Marescotti’s barque ran aground on the same shoals on which Cardinal De Luca shipwrecked in the 1670s, the strength of elements within the ecclesiastical or papal bureaucracy that did not want to change their working practices. Of course, there had been some shifting about of the sands in the interval, and it may be significant that it was the papal notaries, not the monasteries, that succeeded best at resisting the cardinal’s efforts. What is clear is that papal power was more than ample to obtain the obedience of the Capitoline notaries but not quite sufficient to compel that of its own bureaucracy.

During the citywide inspection of notarial offices in 1702–3, Marescotti’s agents had found a great many instruments and wills that had not been archived—that is, copied, checked against the originals, and deposited in the Archivio Urbano. The cardinal had broader concerns as well, if he was indeed the author of the memorandum that worried about the original notarial protocols still in the hands of Roman confraternities and monasteries. He knew about loopholes that kept notarial documents generated within the Curia out of the Archivio Urbano and sought to cast the government’s reform net widely enough to capture vital missing records for its shelves. The loopholes included the so-called notary of the Archive (i.e., Archivio of the Curia Romana) who after 1630 had never deposited any protocols in the Archivio Urbano and those notaries of the Apostolic Camera working for the Datary whose names were virtually impossible to discover. In addition key documents that the state perhaps ought to preserve, but did not, were the books of the secretaries of the many public bond funds (monti) sold in Rome. And the parish priests and hospital workers who rogated testaments for individuals who could not get to a notary in time all too readily forgot to bring these to the Archivio Urbano.

Institutionally and financially, the Archivio Urbano had settled into a stable if less prominent role than that envisioned for it by its founders. It was not a policing or even a certifying agency for the notarial profession. Policing was, and would remain, an extra-institutional task; the Albani pope had deputed his most meticu-
lous associate to undertake it, and in the future it would wax and wane with papal interest. On the certifying side, the 1679 reforms of Innocent XI had decisively reconfigured the procedures for authorizing new notaries, putting experienced professionals rather than bureaucrats in charge of examining aspirants. The profile of the Archivio Urbano was so low in fact that we lose track of its precise location in these years. Although some sources say that it was lodged in the Torre dei Venti within the Vatican Palace, the diarist Francesco Valesio records in November 1702 that a fire near the Piazza Colonna threatened the archive and that its contents were moved to safety. Yet an architect’s report from 1703 clearly indicates that the Archivio Urbano was among several archives housed in the Belvedere extension to the Vatican Palace. Whenever the shift to the Vatican took place, the archive was still there in 1728, when a follow-up investigation ordered by Pope Benedict XIII highlighted the problem of access.

The reform decrees of 1704 gave the Archivio Urbano, despite its diffidence, several general tasks that show that papal authorities still had no other official to whom to turn when they wanted to implement new notarial routines. The eighteenth-century reformers required the archivist to make an alphabetical list of the thousands of testators whose forgotten sealed wills the pope had ordered opened in summer 1703. Elaborating on the laconic notices of the founding legislation of 1625, the decrees of spring 1704 insist that he now keep a confidential volume in which to register all future sealed wills delivered to city notaries. They supplemented this record-keeping task with others. Notaries, including administrators and lessors of notarial offices, must present documentation indicating that they have been made notaries by an authorized agent (i.e., someone with the power to create new notaries) to the archivist of the Archivio Urbano. The decrees charged him with keeping a special volume listing the name of the notary and the date each one received his privilege. In Marescotti and Clement XI’s vision, the archivist did not examine the candidates or judge their abilities, as did the first head of the Archivio Urbano in the 1620s, but exercised a purely bureaucratic function. Nevertheless, they also had a useful part for him to play in their innovative enforcement mechanisms. Marescotti had given notaries who were delinquent in making copies for the Archivio Urbano one month to complete them. To prove they had done so by the 13 April 1704 deadline, they must obtain a sworn statement from the archivist and present it to the cardinal. A two-page “note of the documents in the General Archivio Urbano” attests to the fact that during Albani’s pontificate the copy archive, or at least its archivist, had acquired a range of new secretarial duties.

In part, the sense of stability in the archive arose from the lengthy tenure of its archivist Luca Antonelli, who ran the Archivio Urbano from 1696 until his death.
sometime after 1724. In later years, he remembered with pride that he had not only received the inspectors in 1702–3 but had also been honored by a visit from Clement XI himself in 1704. The authors of the reform decrees knew, and must have had confidence in, Antonelli; if it was a secretary they wanted, they must have believed they had the right man.

Yet it was not clear that an efficient clerk was all that the Archivio Urbano needed. Critics lashed out at its failure to secure the copies that were its due. Some blamed the negligence of the permissive contractor and some that of the notaries themselves, but the most convincing explanation pinpointed the vulnerability introduced by the change in mode of payment in 1646, soon after Urban VIII’s death. Thenceforth, clients paid the archiving fees directly to the archivist, which satisfied the contractor’s financial goals without necessarily producing the copy for which the fee was paid. And, of course, some papal agencies in one way or another managed to exempt themselves from the obligation.

An undated report, probably from after 1712, assessed the efforts to rectify the shortcomings of the Archivio Urbano in the preceding decade, announcing mixed results. It registered the archiving of a staggering twenty-four-thousand copies, thanks largely to the obedience of the Capitoline notaries, and it also celebrated the acquisition of the early volumes of Lorenzo Bertonio and Nardo Venettini from their ecclesiastical owners. On the debit side, however, was the fact that Antonio Scambi’s fourteenth-century protocols continued to elude the archive, as they would for another two centuries. More significantly, it lamented the fact that papal notaries had ignored repeated orders to bring copies to the copy archive. Chief delinquents were the busy offices of the notaries of the vicario and the notaries AC. The report estimated that they might owe the archive as many thousands of documents as had the Capitoline notaries. Unlike the Capitoline notaries, however, these papal notaries had not complied with the deadlines set in 1704 or with subsequent edicts.

Perhaps Marescotti and the pope would have liked to stretch the original mandate of the Archivio Urbano beyond holding copies of wills and long-term mortgages, but consistent with their conservative vision they never wrote new legislation. Quite a few of the failings that emerged in the scrutiny of the period 1702 to 1704 were therefore never rectified. The notary of the Archive continued his errant ways and the public bond accounts remained dispersed. Although the state’s efforts succeeded in prying loose a few medieval protocols from ecclesiastical hands and netted the Archivio Urbano an impressive number of missing copies, it could not obtain those it wanted from the notaries of its own tribunals. As in Cardinal De Luca’s
era, the reformers never quite mustered the political will and resources necessary to force change among the personnel at the heart of the Curia.

Conclusion

The documentary regime that Clement XI’s inspectors brought to light in the early eighteenth century receives high marks for its capacity to preserve notarial records of both business and judicial acts. Venality had proved a much better stimulus to their collection in neat bound volumes on the shelves of notarial offices than any other measure anyone had tried. Yet legislation had also played a positive role. Requiring that instruments be copied out in full, bound at regular intervals, and made easily retrievable through indexes helped to ensure that there would be neat bound volumes to be placed on those shelves. If we doubt its effects, we can take a look at the variety of formats and small number of the surviving fourteenth- and fifteenth-century protocols in Rome. So it made sense to send out personnel to find out what the relationship between the laws governing notarial writing and the actual practices of notaries was, though it would have been even smarter to do so on a regular basis. If, on the other hand, the copy archive was not an unqualified success, it was at least not essential. Clients and officials in need of a document could count on the protocols of the venal officeholders.

The report card on the state of the profession in 1705 seems more mixed. The papal notaries with their vacabile offices, fewer than they had been a half century earlier, appear to have enjoyed some independence and prosperity, though more research would be needed to verify this. They certainly complained less and were less compliant than their colleagues in the Capitoline tribunal. Evidently the fact that the state still profited from the sale of their offices put them in a better position to defend both their economic and political interests. The Capitoline notaries, enjoying the free disposal of their offices, accepted the new disciplines for the most part obediently. Nonetheless, they seemed to have very little leverage with papal officials and suffered, as they informed them, from past reforms the popes had imposed. The crisis over the Archivio Capitolino made abundantly clear that they had been totally abandoned by their old protectors, the civic government, yet they had not found new patrons. Their survival as a corporate professional group until the unification of Italy, however, suggests that, despite the strains, they had found an equilibrium within the papal ancien régime. Driven by their need for authoritative documents, clients continued to make their way to the offices of the Capitoline notaries until the Papal State itself came to an end.