

# **Reti Medievali E-Book**

**16**

## **Reti Medievali E-Book**

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**Europa e Italia.  
Studi in onore di Giorgio Chittolini**

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## Nota

Con questa raccolta di studi la redazione di Reti medievali intende onorare in Giorgio Chittolini un maestro che, con l'esempio delle sue ricerche e con la sua disponibilità sempre aperta al confronto e alla discussione, ha indicato a un'intera generazione di storici italiani l'importanza di una attitudine sempre vigile alla comparazione e al contatto con la comunità scientifica internazionale degli studiosi del medioevo e dell'età moderna. Questa stessa comunità, per nostro tramite e attraverso non solo i saggi raccolti nel presente volume, ma anche una *tabula gratulatoria* che include quanti riconoscono un debito intellettuale con lui, gli rende omaggio in occasione del compimento del 70° anno di età e della sua uscita dai ruoli dell'Università.

La cura del volume è di Paola Guglielmotti, Isabella Lazzarini e Gian Maria Varanini. Pietro Corrao, Roberto Delle Donne e Andrea Zorzi hanno contribuito ad allestire il volume. La bibliografia degli scritti di Giorgio Chittolini è a cura di Maria Nadia Covini.





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# Bibliografia di Giorgio Chittolini

## 1965-2009

a cura di Maria Nadia Covini

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**Europa e Italia.**  
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# Piombino between the great powers in the late fifteenth century

by David Abulafia

1. Piombino has been unfairly neglected by historians. Although the Appiano lordship was small, consisting of Piombino itself, some small towns in the hinterland and, importantly, the island of Elba, this *signoria* lay in a strategically vital position, looking across the straits between Tuscany and Corsica, and effectively controlling the entrance into the waters of the Tyrrhenian Sea<sup>1</sup>. In addition, Elba, *isola del ferro*, was a major source of iron, as it had been since the Etruscan era, and the merchants of Piombino (not to mention its pirates) navigated the waters as far south as Tunis, where traders from Piombino enjoyed commercial privileges similar to those conferred on the Genoese, Pisans and Florentines<sup>2</sup>. However, the history of Piombino and its territory still cannot be written without close reference to seventeenth and eighteenth-century sources. A brief survey in reverse order of the literature explains why. In the last century one of the most indefatigable historians of the principality was Romualdo Cardarelli, who was employed by the Italian railways, and took every opportunity to collect archival material concerning the town on his travels around Italy on official business<sup>3</sup>. However, his essays on the subject did not culminate in an overall survey of the city's history nor in a history of its Appiano lords. One of the best surveys of the history of Piombino, by Cappelletti, dates from 1897; it remains the starting point for

<sup>1</sup> P. Ghelardoni, *Il territorio piombinese nel XV secolo*, in *Populonia e Piombino in età medievale e moderna*, ed. M.L. Ceccarelli Lemut and G. Garzella, Pisa 1996 (Biblioteca del Bollettino Storico Pisano, 44), p. 83-89.

<sup>2</sup> D. Abulafia, *From Tunis to Piombino: piracy and trade in the Tyrrhenian Sea, 1397-1472*, in *The experience of crusading*, vol. 2, *Defining the Crusader Kingdom*, ed. P. Edbury and J. Phillips, Cambridge 2003, p. 275-297; E. Massart, *La signoria di Piombino e gli Stati Barbareschi*, in «Bollettino storico pisano», 39 (1970), p. 69-118; also, on trade: P. Meli and S. Tognetti, *Il principe e il mercante nella Toscana del Quattrocento: il magnifico signore di Piombino Jacopo III Appiani e le aziende Marchiani di Pisa*, Firenze 2006.

<sup>3</sup> R. Cardarelli, *Baldaccio d'Anghiari e la Signoria di Piombino nel 1440 e 1441 con prefazione e introduzione sulla storia dello Stato di Piombino dagli inizi fino a tutto il 1439*, Roma 1922, a work based on his *tesi di laurea* which contains a fearsome invective against a journal editor who had failed to keep the promise to publish the entire work. However, neither his projected grand history of Piombino under the Appiani, nor his history of the Spanish *Presidios* on the Tuscan coast, saw the light of day; see *La Biblioteca di Romualdo Cardarelli*, 2 vols., Napoli 1994-1997.

modern studies<sup>4</sup>. The valuable dependency of the Appiano *signoria*, the island of Elba, has not been the subject of intense historical research since G.A. Ninci published his *Storia dell'isola dell'Elba* in honour of the island's new master, Napoleon Bonaparte, in 1815<sup>5</sup>. Ninci, like everyone before and after, relied heavily on the manuscript history of Piombino written in the seventeenth century, of which more shortly; but he also employed Siennese and other Tuscan chronicles quite profitably. Still, when he departed from the established line it was mainly to embroider the sources with a touch of imagination. Ninci in turn looked to Cesaretti, who devoted two volumes to the principality in 1788-1789, making use of what he thought were the decisions of the *Consiglio* of Piombino, though in fact he relied on the summaries provided in the manuscript history of Piombino, preserved in Piombino (in a better copy) and in Pisa (in a less good one); but even the Piombino copy is thought not to have been written in the author's hand<sup>6</sup>.

This is still, though unpublished, an unrivalled source for events in the fifteenth and sixteenth centuries. Its full title is *Memorie le più antiche che si sono potute ricavare della città di Piombino*, and it was for some time attributed to Pier Domenico Corsi, a sixteenth-century notable, an attribution which Ottavio Banti considered «non controllata e probabilmente non controllabile»; the attribution is also problematic since it implies that most of the work was written some time before its terminal date of 1634 and completed by another author, who was nonetheless so expert in imitating his predecessor that there is no sign of a join in the text. The *Memorie* are, again to cite Banti, «un testo annalistico»; the history they recount goes up to the end of the Appiano dynasty in 1634, which provides a *terminus post quem* for the writing of the work, but they are based on a close reading of the *Libri di Consigli* still to be found in the Piombino archives, on historians such as Guicciardini, Giovio and Malavolti and on the writings, for the late Quattrocento, of Pope Pius II. It has been argued that the manuscript was complete by 1706, but this depends on fine arguments about dating systems that are not particularly convincing: that the author was using the old Pisan dating system which was dropped that year. Still, it appears to date from the mid to late seventeenth century or, at the latest, from the start of the eighteenth century, for it was written by an author who had a deep affection for the Appiano dynasty, which suggests that he may well have lived the early part of his life under their rule. The author appears to have been not merely

<sup>4</sup> L. Cappelletti, *Storia della Città e Stato di Piombino dalle origini fino all'anno 1814*, Livorno 1897.

<sup>5</sup> G. Ninci, *Storia dell'isola di Elba dedicata a Sua Maestà Napoleone il Grande Imperatore*, Portolongone 1898.

<sup>6</sup> Biblioteca Civica Falesiana, Piombino, MS 139, entitled *Memorie le più antiche che si sono potute ricavare dalla Città di Piombino* [hereafter: MS 139]. On this MS, see O. Banti, *Di una storia manoscritta del principato di Piombino*, in *Populonia e Piombino in età medievale e moderna*, p. 91-98; A. Cesaretti, *Istoria del Principato di Piombino e osservazioni intorno ai diritti della Corona di Toscana sopra i castelli di Valle e Montone*, 2 vols., Firenze 1788.

from Piombino – that is clear – but also well connected with the city government, since he had access to the archives of the town.

It is fair to say that everything that has been written subsequently about the Appiano lordship in Piombino summarises or repeats the information given by this source<sup>7</sup>. It is difficult to stand back from it very far, even with the help of fifteenth-century materials. Inevitably this means that the emphasis falls on political history – on the succession to the *signoria*, or on great moments such as Alfonso of Aragon's siege of Piombino in 1448; however, this source is also quite voluble concerning the diplomatic and commercial ties between Piombino and the kings of Tunis, apparently attracted by the high drama of this difficult relationship. Documentary sources have been mobilised less enthusiastically, in part because the author of the manuscript can be seen to have used archival sources; and his work has thus been treated as an adequate substitute, chronicle and archive report in one. Yet, to take the example of Tunis, a handful of texts of treaties between Piombino and Tunis have survived, and they were edited first of all by the great Sicilian Arabist Michele Amari in the mid-nineteenth century. More ancient still is the history of Piombino written by Agostino Dati, bishop of Siena, around 1500, which combines a high classical style with an account of Piombino's relations with other Italian powers, and of the vicissitudes of the ruling dynasty<sup>8</sup>. Such sources as the decisions of the *Consiglio* preserved in Archivio Comunale di Piombino, the diplomatic correspondence between Piombino and Milan preserved in the Archivio di Stato in Milan, and possibly later material from Simancas, will all repay close attention from historians<sup>9</sup>. This article provides no more than a first attempt to integrate a small number of the Milanese documents into the wider history of the lordship of Piombino.

What must be stressed, then, is that the history of Piombino is not simply the tale of a small and remote town, local history without much resonance beyond the city's walls. The example of Piombino will help us understand how princely power often cooperated with traditional communal institutions in the government of a late medieval *signoria*: the *Anziani* of Piombino made their own decisions on important issues, working closely, however, with the prince, so that what emerged was a co-operative, dualistic government of prince and commune. Given the strategic importance of Elba, the struggle for control of the waters of the Tyrrhenian Sea in the age of Alfonso the Magnanimous and Ferrante of Naples closely involved the Appiano family in Piombino. Moreover, Piombino made some attempts to claim the commercial heritage of Pisa, now well past its prime; and, even if Florence was far

<sup>7</sup> V. Petronio, *Cronistoria di Piombino e del suo Principato*, Siena 2006 (though compiled from 1943 onwards).

<sup>8</sup> Agostino Dati, *Historia Plumbinensis*, in *Augustini Dati opera*, Siena 1503.

<sup>9</sup> Archivio Comunale, Piombino, Libri di Consigli and Libri di Ragione; Archivio di Stato di Milano, Potenze Estere 313 [hereafter, ASM, PE 313], cited in the notes with the date as given (varying between the Milanese and Pisan systems, depending on whether the document originated in Piombino or Milan), but adjustments of date have been made in the text of this article.

more successful in filling Pisa's shoes, the Piombinese trade network reveals important features of fifteenth-century trade at a time of commercial recovery in the western Mediterranean.

2. Overshadowed by Siena and Florence in the early fifteenth century, Piombino became an ally of the largest Italian state in the second half of the Quattrocento. By the 1450s Piombino had entered the sphere of influence of the Aragonese kings of Naples; the lord of Piombino was paying tribute to King Ferrante, and a stable relationship had developed between the Aragonese dynasty in the south and the Appiani, despite severe tensions between the Appiani and Ferrante's father (most famously, the siege of Piombino by Alfonso the Magnanimous in 1448). This relationship has been the subject of another article by me in a volume in memory of Philip Jones, and I shall not reproduce the arguments here, except to point out that the relationship developed gradually, and that Piombino saw Naples as a powerful counterweight against predatory powers in and beyond Tuscany, notably the Florentines<sup>10</sup>. Milan lay over the horizon, but there was a steady stream of respectful correspondence between the Appiani and the Sforzas. Even after a warm relationship developed between the Neapolitan and the Milanese courts, the Sforzas remained sensitive to an extension of Neapolitan influence in northern Italy, and the prince of Piombino took care to explain his relationship with Naples to the duke of Milan, sending ambassador to him in summer, 1456. The lord of Piombino wished it to be known that he was not trying to upset the apple-cart of Italian politics, nor to damage the Peace of Lodi, and he had nothing but good memories of the friendship of the Sforzas<sup>11</sup>. One way of encouraging the Sforzas to think well of the Appiani was to send them presents of falcons from Elba («questa mia insula del ferro»), or even to permit members of the Milanese dynasty to catch falcons on the territory of Piombino<sup>12</sup>.

Issues of moment emerged particularly during the periods when Milan was overlord of Genoa, or competing to control the city, which, after periods of Visconti and French overlordship, lay under the suzerainty of the Sforzas between 1464 and 1478 and 1487 to 1499, although pro-French and pro-Angevin factions did not remain quiet during those years. For these dates mask a much more complex picture, of internal rivalries and of tensions between the Sforzas and Genoa even when they were its overlords<sup>13</sup>. Piombino's relationship with Genoa was also full of contradictions. Although the Genoese had, in the past, provided consular cover for the Piombinesi in

<sup>10</sup> D. Abulafia, *The Mouse and the Elephant: relations between the kings of Naples and the lordship of Piombino in the fifteenth century*, in *Communes and Despots in late medieval and Renaissance Italy*, ed. J. Law and B. Paton, Aldershot 2010, p. 145-160.

<sup>11</sup> ASM, PE 313, 6 June 1456.

<sup>12</sup> ASM, PE 313, 4 July 1466; ASM, PE 313, 23 August 1469.

<sup>13</sup> S.A. Epstein, *Genoa and the Genoese, 958-1528*, Chapel Hill, North Carolina, 1996, p. 286-289.

Tunis, the relationship between *la Superba* and what the Genoese saw as an irritating minor competitor also had its low points. The Genoese aspired to control the Elba iron mines, and their interests in Corsica also clashed on occasion with the ambitions of the Appiani and their subjects (as early as 1401 Genoese intruders had tried to seize Elba). From 1455 Genoese businessmen held the concession to mine for iron on Elba, though the Medici acquired this right in 1477<sup>14</sup>. Piombino found itself sucked into bigger conflicts between the Catalans and the Genoese, which was especially difficult for them once Alfonso of Aragon had become king of Naples, and even more so once he and his son Ferrante had begun to receive tribute from Piombino. In the background lay the continuing rivalry between René of Anjou and Alfonso of Aragon over control of the kingdom of Naples. In 1453, ambassadors were sent to Toulon to persuade Alfonso's old enemy René of Anjou, to prevent Provençal corsairs from attacking Piombinese shipping. Piombino demanded the release of prisoners and merchandise seized by René's sailors. The costs of the embassy were to be met one third by the *signore*, one third by the commune and one third by Blasino (Biagino) Calefati, one of the most active merchants in Piombino<sup>15</sup>. In 1456 the problem was that Catalan ships were attacking Genoese grain ships trading along the coastlines of the principality of Piombino, acts for which Emmanuel d'Appiano felt it important to send apologies to Francesco Sforza<sup>16</sup>.

Trouble in these waters became ever more acute after 1458, as Genoa became the base from which Jean de Calabre attempted to reconquer Naples on behalf of his father<sup>17</sup>. Genoese-Catalan warfare blighted the waters between Italy and Spain in this period, as a fascinating account of naval conflict between the Genoese and the Catalans in 1466, recently re-edited by Clara Fossati, makes plain<sup>18</sup>. Piracy, shipwrecks and other interruptions marred Genoese relations with Piombino in these years, and were reflected in the correspondence with Milan once Galeazzo Maria Sforza was lord of Genoa. In November 1468 a polite letter was sent to Jacopo II d'Appiano reporting rumours that that a galley of the Grimaldi had been wrecked at sea and that its captain and crew were now safe in Appiano hands. Although the letter diplomatically assumed that the men would be restored to Genoa, the underlying message seems to be: do not dare assume that you can hold on to

<sup>14</sup> Abulafia, *From Tunis to Piombino*, p. 289-292.

<sup>15</sup> MS 139, f. 67r-v.

<sup>16</sup> ASM, PE 313, 12 August 1456.

<sup>17</sup> D. Abulafia, *The inception of the reign of Ferrante I of Naples*, in D. Abulafia, ed., *The French descent into Renaissance Italy, 1494-95: antecedents and effects*, Aldershot 1995, p. 71-89.

<sup>18</sup> A. Gallo, *Commentarius de Genuensium maritima classe in Barchinonenses expedita, anno MCCCCXVI*, ed. C. Fossati, Roma 2010 (Rerum italicarum scriptores, ser. 3, 8), <<http://copac.ac.uk/search?ti=Commentarius%20de%20Genuensium%20maritima%20classe%20in%20Barchinonenses%20expedita,%20anno%20MCCCCXVI>>; and C. Fossati, *Genovesi e Catalani: guerra sul mare. Relazione di Antonio Gallo (1466)*, Genova 2008, both containing the Latin text and an Italian translation.

them or their goods<sup>19</sup>. This theme was taken up in a subsequent letter of early December, where the point was made that the «cose tolti [sic] ali subditi nostri siano interamente restitute»<sup>20</sup>. According to a letter of 1471, the men of Piombino had expropriated all the goods on board, «allegando hauere posuto secondo lantiqua consuetudine de vostri predecessori retenere dicte robbe», as the Sforza court complained on Genoa's behalf; the fact was (Milan insisted) that the Genoese had always treated the Piombinesi well, with *umanità* and *cortesía*, so this behaviour was simply not acceptable<sup>21</sup>. Milanese diplomacy involved the exercise of considerable charm: Jacopo III was reminded of the good relations between his father Emanuele and Francesco Sforza, and of the warm ties between Milan and his protector King Ferrante, so that Jacopo's co-operation with Milan «farà cosa grata ala S.ta M.ta del Re», a point not lost on Jacopo when he eventually replied in spring, 1469, full of respect for both the duke and the king but not apparently offering a solution to the disagreement<sup>22</sup>. Inevitably, the matter dragged on, and Galeazzo Maria Sforza was still complaining more than a year and a half later, after receiving representations from the governor of Genoa; but Jacopo was still failing to promise anything of substance, though he did offer sweet words: «quanto questo mi doglia, nol porria narrare»<sup>23</sup>. The final outcome is not recorded.

These events, hardly unusual in themselves at a time when pirates, Christian and Muslim, bedevilled the Tyrrhenian Sea, drew Piombino to Galeazzo Maria's attention. Jacopo III d'Appiano's close relationship with Naples did not dissuade the duke of Milan from intervention in Piombino; maybe it was irritation over matters such as the shipwreck that encouraged him, during a visit to Florence in 1471, to give his personal support to exiled Piombinesi who invited him to seize Piombino and Elba<sup>24</sup>. Since the Sienese had already warned the Piombinesi of the arrival of an enemy army, the town was prepared for the onslaught and the rag-tag enemy army achieved nothing. The Florentines appear to have been content to stand aside and to let the invaders have their way, and Milan at most offered useless words of encouragement. But Jacopo decided he could not simply rely on his own resources<sup>25</sup>. He complained about the way he had been treated to the Florentines and to the Neapolitans, who had become his protectors a few years earlier; and he requested Ferrante of Naples to send him troops, though for Cesaretti this involved nothing less than foreign occupation of the town: «sottoponendosi

<sup>19</sup> ASM, PE 313, 21 November 1468.

<sup>20</sup> ASM, PE 313, 7 December 1468.

<sup>21</sup> ASM, PE 313, 21 January 1471.

<sup>22</sup> ASM, PE 313, 16 March 1469, 3 April 1470.

<sup>23</sup> ASM, PE 313, 1 December 1471 (also ASM, PE 313, 21 January 1471).

<sup>24</sup> Cesaretti, *Istoria*, vol. 2, p. 54-55, expanding (perhaps fancifully) on MS 139; I have not found any reference to this in the Piombino-Milan correspondence preserved in ASM, PE 313, which is perhaps not surprising.

<sup>25</sup> MS 139, f. 80r-v.



così per la prima volta ad un giogo straniero»<sup>26</sup>. There may have been some resentment that the citizens of Piombino were obliged to supply bedding for these troops once they arrived<sup>27</sup>. But the reasoning was explained by the author of the manuscript history of Piombino:

Poiché passando continue solleuazioni di Guerra tra i Potentati d'Italia, e non potendo questo Stato all'occorrenza senza qualche appoggio sostener gran tempo l'impeto d'inimico a lui Superiore, si pensò in Piombino con la legge o protezione di un tanto Rè non solo di godere una Pace più Sicura, e tranquilla, mà ancora di render vani quei pensieri, che auessero preteso di perturbargliela; per questo, e simili dimostrazioni d'affetto, che auuano praticato gl'Anziani in appagare anche in graue Scapito del Commune<sup>28</sup>.

In return for its support the *signore* paid off debts that had been accrued by the commune; indeed, co-operation rather than confrontation generally characterised the relationship between the Appiani and the towns within their dominion. The intervention of the king of Naples in the internal affairs of Piombino was very limited; at one point Ferrante raised the question of the ownership of two castles claimed by the bishop of Massa, but to no effect<sup>29</sup>. When Jacopo III died in 1474 the *signoria* passed smoothly to his eldest son, another Jacopo, who was urged in his father's will to respect the ties binding the Appiano dominion to King Ferrante of Naples. These ties were reaffirmed when Jacopo IV married Ferrante's grand-daughter Vittoria in 1476; they were further strengthened when Jacopo took charge of troops in the army of Alfonso, duke of Calabria, in the aftermath of the Pazzi conspiracy, while Naples and Pope Sixtus IV were at war with Medicean Florence<sup>30</sup>. Indeed, so ardent was the lord of Piombino that he pursued Costanza Sforza of Pesaro off the battlefield at Poggio Imperiale, where the Neapolitans secured a significant victory in September 1478; away from the protection of his own men, he was seized by her troops and conveyed to captivity in Poggibonsi. This did not last long, since there were *signori* from the other side who had been captured, and Malavolti reports that an exchange was made with the lords of Carpi and Mirandola<sup>31</sup>. In any case, it is abundantly plain that Piombino had been drawn into the Neapolitan system of alliances, alongside such minor lords as the counts of Urbino. And, given the importance that the Aragonese in Naples attached to building their power and influence in Etruria – in the area between Siena and Rome – Piombino promised to have its strategic uses not simply as a protector of the sea lanes, but also as an advance position on land. Yet it would be a mistake to exaggerate Jacopo's dependence on Ferrante of Naples. He also took employment as captain of the Sienese

<sup>26</sup> Cesaretti, *Istoria*, vol. 2, p. 56.

<sup>27</sup> Cappelletti, *Storia di Piombino*, p. 110-111.

<sup>28</sup> MS 139, ff. 80v-81r.

<sup>29</sup> Cappelletti, *Storia di Piombino*, doc. IV, p. 461, for Valle and Montione.

<sup>30</sup> ASM, PE 313, 1 February 1476; Cappelletti, *Storia di Piombino*, p. 114-117.

<sup>31</sup> Orlando Malavolti, *Historia de' fatti, e guerre de' Sanesi*, Venezia 1599, pt. 3, f. 74v.

armies in 1489. Like many minor *signori*, he saw in the *condotte* offered by other Italian polities a chance to gain renown and money.

The rulers of Piombino were pre-occupied by the ambitions of other Italian powers far greater than themselves, and their foreign enterprises were mainly concerned with fostering trade overseas. But there was one exception, and this once again brought them into a region in which Milan had until recently played a role. Since Piombino and Elba stood astride the sea passage dividing Corsica from the Italian mainland, it is not surprising that they received appeals from Corsican rebels discontented with the government of the island by the Banco di San Giorgio in Genoa, which had itself been succeeded between 1464 and 1478 by the overlordship of the Sforza dukes of Milan (in their capacity as lords of Genoa); in 1478 the island had been handed over by the Milanese to the Genoese nobleman Tommaso di Campofregoso, but he only exercised his own claims to lordship for five years. Corsica was thus in a ferment by 1483, and an attempt by another Italian prince, such as the Appiano lord of Piombino, to gain lands in Corsica was not entirely preposterous: the island seemed open to the first comer. But the difficulty was that even in the north of the island, where the Appiani concentrated their efforts, there were deep divisions within the Corsican elite, and the Appiani merely represented one faction among many in a society riven by feud and faction.

In response to an appeal for help from the rebel leader Rinuccio de Leca, Jacopo IV d'Appiano sent his brother Gherardo, count of Montagnano, with troops to Corsica in 1483. He concentrated his efforts on the fertile plain of the Balagne in the north-west of the island, and made some progress in Cap Corse as well, besieging Bastia. Ninci, writing for his Corsican master, the lord of Elba and ex-emperor of France, recounts how Gherardo was acclaimed as count of Corsica by Rinuccio da Leca, who also took an oath of fealty to Jacopo IV<sup>32</sup>. Rinuccio was vigorously opposed by a cousin, Gianpaolo de Leca, who not surprisingly called on the island's old master, Genoa, for help. Genoa had limited commercial interests in Corsica, even after many decades of Genoese rule there; its main export from Corsica was wine, and its main port of embarkation was Saint-Florent, close to Cap Corse. But Genoese commercial shipping also made very intensive use of the passage between Elba and Corsica, and it was essential to ensure the stability of those waters. Thus the Genoese soon riposted with a landing at Saint-Florent; and Gherardo was scared away from the island. Cappelletti notes that, eighteen years later, a member of one of the families that opposed Gherardo d'Appiano was well received in Piombino by Jacopo IV, founding a local family which was appositely named the Balagna<sup>33</sup>. It is thus clear that the dramatic evidence for an invasion of Corsica in 1483 represents only the tip of an iceberg.

<sup>32</sup> Ninci, *Storia dell'isola*, p. 63-64; Cappelletti, *Storia*, p. 117; P. Antonetti, *Histoire de la Corse*, Paris 1990<sup>2</sup>, p. 183.

<sup>33</sup> Cesaretti, *Istoria*, vol. 2, p. 73-74; Cappelletti, *Storia*, p. 118.

There were close links between the rather wild island and Tuscany by way of Elba and Piombino. It is likely that commercial ties were intimate, even though Corsica offered little apart from primary goods such as wine and oil<sup>34</sup>. A number of Corsicans were brought to Appiano territory to repopulate the empty town of Populonia up the coast from Piombino<sup>35</sup>.

More alarming for the Appiani were events on another island, Elba; they also reveal that the sea channel between Corsica and Elba was of crucial strategic and commercial importance. In 1489 a Catalan pirate, Francesc Torella (Francesco Turriglia, known as Fra Carlo the Pirate), arrived with a sizeable fleet, supposedly planning the invasion of Elba. With the island under effective siege, and local shortages of essential goods, Jacopo was urged to flush the pirates out of Piombinese waters; but the problem was a lack of resources. Indeed, he very much feared that the inhabitants of Elba would pack their bags and leave, exposing the island even more to such predators. Fortunately for Jacopo the king of Aragon, Ferdinand the Catholic, was aware of the crisis and was keen to intervene; Bernat de Vilamari, the commander of the Catalan-Aragonese fleet, arrived promptly off Piombino, and a letter from the Aragonese king assured the Appiani that he would not permit any of his subjects to commit aggressive acts against the *signore* and his subjects. Fine gifts from the Appiani ensured that help was duly given against Torella, whose squadron scampered away on the arrival of the official Aragonese fleet, and who left behind the goods and prisoners he had taken on Elba<sup>36</sup>. We can detect several motives on the part of the king of Aragon. One was certainly to clear the waters of the Tyrrhenian Sea of pirates, because their presence was damaging to commerce and the king was anxious to kick-start the Catalan economy again after the damaging interlude of the Catalan civil war. A second motive was surely to express his own political claims in the area, against the day when he could assert his authority over the kingdom of Naples and those parts of Italy which depended in some way on Naples. In the longer term, this policy culminated in the complete takeover of Naples in 1503, and the involvement of Ferdinand in the complex politics of the Italian peninsula, but at this stage he was probably thinking of a looser relationship with his Neapolitan cousins. Catalan-Aragonese hegemony already extended over the islands of Sicily and Sardinia, though Alfonso V's attempts to secure Corsica had ended in defeat. But the events of 1489 can be seen as the first stage in the creation of a new political relationship binding the Appiani to the main line of the house of Aragon-Catalonia.

A third incident in the same waters in 1491-1492 indicated that Ferdinand's promises of protection were still unable to secure the tranquillity that the Appiani sought. An embassy had to be sent to Milan to complain

<sup>34</sup> R. Emmanuelli, *L'implantation génoise*, in *Histoire de la Corse*, ed. P. Arrighi and A. Olivesi, Toulouse 1990<sup>2</sup>, p. 202.

<sup>35</sup> Petroni, *Cronistoria*, p. 94-95, for Corsican migration towards Piombino around 1490.

<sup>36</sup> MS 139, f. 88r-v.

at the activities of pirates who were deemed to be vassals of the Sforza duke, Nicolino and Batino. The duke was to be told how:

infestassero i mari [text: mori] di Piombino commettendo mile insolenze, ed ostilità contro i sudditi del signore Jacopo, e che si volesse dignare di proibire a detti Pirati il corso del canale di Piombino, e di far restituire tutto quello, che auessero tolto in questo dominio, ò almeno permettesse, mentre dissimulasse il rimedio, che i Piombinesi senza chiamarsene offesi, auessero armati legni per rimouer l'orgoglio di quei ladroni<sup>37</sup>.

The author of the *Memorie* could not, however, discover what had happened to the embassy<sup>38</sup>. The file of correspondence between Piombino and Milan in the *Potenze Estere* section of the State Archives in Milan is very meagre at this point, but a letter dated 3 August 1491 [1492 Pisan-style], sent by Jacopo IV d'Appiano to the duke of Milan, confirms that the complaint was real: it speaks of «quelli che portano la insignia sua» and of the activities of a Genoese captain, Butino Giustiniani, whose galleys had seized the property of Jacopo's vassals<sup>39</sup>. Ninci, the historian of Elba, was, nonetheless, certain that he knew the outcome: the Milanese government was angry that the pirates, whether or not supplied with Milanese letters patent, had been attacking the ships of a friendly state while flying the flag of Milan: «varj na-vigli armati con paviglione milanese; i quali, dopo aver arrestati non pochi bastimenti dell'isola, bloccaron questa strettamente». However, «gl'Elbani e lui si erano astenuti dall'armar contro i medesimi pel rispetto della bandiera amica che facevano sventolare al loro bordo», while Ludovico il Moro was anxious to do whatever he could to «conservarsi l'occupato dominio»<sup>40</sup>. In other words, the problem was not so much that Nicolino and Batino were flying the Milanese flag on their ships, as that they were attacking Piombinese vessels when they were expected to concentrate their attention elsewhere. It is worth asking whether the Milanese, or rather Genoese, pirates identified Piombino, at this stage, with other powers, notably Naples, since the relations between Milan and Naples had undergone a sharp decline since the 1460's. They may well have seen Piombino as fair game because of its intimate ties to the Aragonese king of Naples. Clearly, though, the efforts of Piombino, Aragon, Milan and Genoa were not sufficient to make the channel between Piombino and Corsica, and the waters around Elba, entirely safe; nor was the ability of the Piombinesi to keep their waters clear made easier by the rocky shoreline of Elba itself, which provided endless opportunities for pirates to hide.

Remote from their main protector, the Aragonese king of Naples, the rulers of Piombino had to use their own talents to protect themselves from interference by very much greater powers. Milan, especially when it was overlord of Genoa, entered their calculations, and the compact body of corre-

<sup>37</sup> MS 139, f. 89v.

<sup>38</sup> MS 139, f. 90r.

<sup>39</sup> ASM, PE 313, 3 August 1492.

<sup>40</sup> Ninci, *Storia dell'isola*, p. 65.

spondence between the Appiani and the Sforzas conveys a sense of the cautious respect which the lords of Piombino displayed when they addressed the dukes of Milan. On the great chess-board of late Quattrocento politics, as on any chess-board, pawns cannot be ignored, even when they stand at some remove from their king and queen. This is an instance in which a pawn occupied a significant strategic position and could even hope for aid from other more powerful pieces on the board.



# Double duchy: the Sforza dukes and the other Lombard title

by Jane Black

It has always been known that the Sforza ruled as dukes of Milan for more than fifty years without any imperial investiture. What has been less recognized is that the real problems in connection with the title lay not in respect of Milan itself but in the rest of the ducal territories. Francesco Sforza took the city of Milan on 26 february 1450, having already won control of almost all Visconti possessions. The mechanism by which he became ruler of the city involved three separate acts: February 26 was the day on which the terms (*capitoli di dedizione*) were agreed that would form the basis of his rule<sup>1</sup>; on 11 March election by a general assembly of the people gave him the ducal title<sup>2</sup>; his formal enthronement took place on 22 March, when the sceptre, sword, ducal seals and other symbols of office were bestowed by representatives of the city<sup>3</sup>. A similar procedure had already taken place in Pavia: on 18 September 1447 terms had been drawn up giving Francesco control of the city and its *contado*; then, in a ceremony in the cathedral, he had been acclaimed count of Pavia by an allegedly enthusiastic populace<sup>4</sup>. Francesco's biographer Giovanni Simonetta described the scene:

<sup>1</sup> See A. Colombo, *L'ingresso di Francesco Sforza in Milano e l'inizio di un nuovo principato*, in «Archivio storico lombardo», s. 4, 32 (1905), 3, p. 297-344, here p. 321ff. A full version of the terms, including Sforza's responses, is published in T. Sickel, *Beiträge und Berichtigungen zur Geschichte der Erwerbung Mailands durch Franz Sforza*, in «Archiv für Kunde österreichischer Geschichtes-Quellen», 14, (1855), p. 189-258, doc. 22, p. 252-258; it can also be found, without Francesco's replies, in M. Formentini, *Il ducato di Milano*, Milan 1977, doc. 25, p. 178-182. Francesco Sforza's claims to the duchy, especially in relation to his negotiations with Emperor Frederick III for a new investiture, were extensively discussed by F. Cusin, *L'impero e la successione degli Sforza ai Visconti*, in «Archivio storico lombardo», n. s., 14, (1936), p. 3-115. See also C.A. Vianello, *Gli Sforza e l'impero*, in *Atti e memorie del Primo Congresso Storico Lombardo*, Milano 1937, p. 193-269 and, more recently, G. Ianziti, *Humanistic Historiography under the Sforzas: Politics and Propaganda in Fifteenth-century Milan*, Milan 1988, p. 26-34 as well as J. Black, *Absolutism in Renaissance Milan: Plenitude of Power under the Visconti and the Sforza 1329-1535*, Oxford 2009, p. 84ff.

<sup>2</sup> On 11 March the assembly of all heads of household proclaimed Sforza «verum et optimum principem, ducem et dominum»: see Colombo, *L'ingresso* cit., doc. 4, p. 88.

<sup>3</sup> The official record of the coronation is published in Colombo, *L'ingresso* cit., doc. 7, p. 95ff.

<sup>4</sup> The title had originally been conferred on Giangaleazzo Visconti by Wenceslas king of the Romans in 1396. On Francesco's election as count of Pavia, see G. Robolini, *Notizie appartenenti*

All the power and jurisdiction of the city was transferred with full authority to Francesco himself and his descendants by representatives appointed by the citizens for the purpose; and they called him count of the Pavians, as though he had been declared true prince of the city in an official diploma<sup>5</sup>.

The citizens of Pavia thereafter pledged obedience to the Sforza as counts of Pavia rather than as dukes of Milan<sup>6</sup>.

Of the three stages in his elevation to the duchy, Francesco saw election as the key. His perception was evident in the official record of his enthronement where it was underlined that the right of the Milanese to elect their duke was based on the Peace of Constance, on age-old custom and on long possession, as well as on imperial privileges. To corroborate his title and the right of the Milanese to elect him, Francesco subsequently instructed the chancery to bring together a collection of the relevant documents<sup>7</sup>. First in the compilation were the two ducal diplomas of 1395 and 1396 granted by Wenceslas, one covering Milan and the other the rest of the cities, followed by the confirmation of those titles by Emperor Sigismund in 1426<sup>8</sup>. As Francesco explained to Frederick III in 1451, the authority of Milanese to elect their own duke independently of the emperor was contained in Wenceslas's original investiture: the ducal title of 1395 had been granted not just to Giangaleazzo but to the city with its contado, which became a duchy; the duchy itself was not eradicated when the Visconti dynasty expired on the death of Filippo Maria but remained integral to the *patria* itself, ready for the people to hand over to Francesco<sup>9</sup>. The collection included Filippo Maria's fictitious transfer to Francesco of all his lands, Francesco's election by the Milanese and the investitures of January and March 1397 making Giangaleazzo count of Angera and duke of Lombardy respectively (the last also a forgery). Most of the other documents were connected to privileges accrued by the city over the years, which conferred autonomy, including the guarantee of Milan's rights contained in the Peace of Constance of 1183 and in the follow-up agreements of 1185 and 1186, as well as three separate confirmations of the city's liberties (by Otto IV in 1210, by Adolph of Nassau in

*alla storia della sua patria*, 6, pt 1, Pavia 1838, p. 70-71; E. Roveda, *Le istituzioni e la società in età visconteo-sforzesca*, in *Storia di Pavia*, published by Banca del Monte di Lombardia, 3/1, *Dal libero comune alla fine del principato*, I, Pavia 1992, p. 55-115, here p. 83-84.

<sup>5</sup> G. Simonetta, *De rebus gestis Francisci Sfortiae commentarii*, G. Soranzo ed., *RIS*<sup>8</sup>, 21/2, Bologna 1932, p. 188: «per eosdem cives, quos in castra legatos venisse diximus, rursus ad id negotii per populum constitutos, omnis civitatis potestas iurisditioque omnis in Franciscum ipsum ejusque posteros pleno jure transfertur eumque proinde verum suae civitatis principem publico documento [alternative reading: diplomate] declaratum (...) Papiensium comitem appellant». There are indeed no surviving documents relating to the proceedings which took place in the cathedral.

<sup>6</sup> Roveda, *Le istituzioni* cit., p. 99 and 102.

<sup>7</sup> Archivio di Stato di Milano [henceforth ASMi], Registri ducali 2, p. 191-260; the final document is described as having been completed in 1461.

<sup>8</sup> *Ibidem*, p. 191-207.

<sup>9</sup> Cusin, *L'impero e la successione* cit., p. 100.



1295 and by Henry VII in 1306). There were two documents which provided a precedent for Milan's diplomatic independence from the emperor: the credentials of the envoys sent in 1234 to support Frederick II's son, Henry, in his conflict with his father, and the treaty with Henry itself. There were other acts demonstrating that the Milanese were accustomed to choosing their ruler: the statute of 1349 granting hereditary powers to the Visconti together with the parallel act in favour of the descendants of Giangaleazzo<sup>10</sup>, as well as the instruments of 1330 and 1354 conferring authority first on Azzone and then on Bernabò, Matteo and Galeazzo<sup>11</sup>. Evidence that the people of Milan sometimes chose figures other than Visconti was contained in the act of 1308 appointing Guido della Torre Capitano del Popolo for life<sup>12</sup>. Whatever the merits of these particular documents in legitimizing Francesco's position in the absence of an imperial investiture, his status as duke was accepted as a *fait accompli* throughout Italy and beyond, jurists supporting the contention that the duchy was an independent entity<sup>13</sup>.

Nevertheless, although his election in Milan was accepted as a valid process, it was an uncomfortable fact that Francesco's title did not provide him with the status he wanted. That was because the Visconti had had two ducal titles in Lombardy, the duchy of Milan created in 1395 and the duchy «of the other places» created the following year. The duchy of Milan, to which Francesco had been elected, covered only the city itself and its contado. What has generally been overlooked is that Francesco did not manage to acquire the other duchy, covering Visconti holdings which lay outside the jurisdictions of Milan and Pavia. These included Brescia, Bergamo, Como, Novara, Vercelli, Alessandria, Tortona, Bobbio, Piacenza, Reggio, Parma, Cremona, Lodi, Crema, Soncino, Bormio, Borgo San Donnino, Pontremoli, Verona, Vicenza, Feltre, Blenio, Belluno, Bassano and a number of Ligurian towns. Following the Lombard wars, this list was much reduced: Verona, Vicenza, Belluno, Bassano, Brescia, Bergamo, Feltre and Crema had been ceded to Venice; Vercelli had gone to the duke of Savoy and the Ligurian towns to Genoa. Francesco was signore of Cremona and Pontremoli in his own right as part of Bianca Maria's dowry. But with regard to his rest of the territories he had no actual title.

The principle behind Francesco's election in Milan and Pavia had been that of the *lex regia*, the idea that the Roman people had voluntarily transferred their authority to the emperor. The citizens of Milan described how in their General Council they had «passed a *lex regia*, or rather a *lex ducalis*, and so handed to Francesco Sforza and his descendants all power and rule [in

<sup>10</sup> ASMi, Registri ducali 2, p. 231-233; both of these acts were included in the Milanese statutes of 1396.

<sup>11</sup> *Ibidem*, p. 255-256.

<sup>12</sup> *Ibidem*, p. 241.

<sup>13</sup> The consummate arguments of the Siennese lawyer Francesco Corte in particular were generally accepted in legal circles: see Black, *Absolutism* cit., p. 102-105, 108-112.

the city] and its duchy»<sup>14</sup>. But it was impossible to acquire the other Visconti duchy using the same formula. That was because the second duchy consisted of multiple separate communities so that there was no one body that could be assembled for the purpose of electing a new duke. As a result jurists were not able to resort to the concept of the *lex regia* as an overall solution to the dilemma of Sforza legitimacy<sup>15</sup>. The problem was insurmountable. One of Francesco's alternative strategies had been to forge the instrument included in the collection of documents mentioned above, which purported to show that Filippo Maria had given him all his lands and cities; but it would never have been in Filippo Maria's power to allocate imperial investitures, and so the fictitious *donatio* had not pretended to give Francesco any of the Visconti's actual titles<sup>16</sup>. Francesco's best hope would have been to persuade Emperor Frederick III to renew the investitures, and indeed the Sforza never gave up their campaign at the imperial court, every approach involving a request for both duchies. Pressing his case in 1457, for example, Francesco sent the emperor three possible versions of the kind of diploma he needed, according to each of which he would be made duke and count «of the said cities of Milan and of Pavia and Angera, and of all their dioceses, *distretti*, and territories, *as well of all the other cities and lands*» which he then held<sup>17</sup>. He and his successors would then truly be dukes of Milan and of the other cities just like the Visconti. But there was little prospect of an imperial title since, as was well known, the emperor hoped to take over the Visconti dominions as devolved fiefs for the Habsburgs. Francesco had to solve day-to-day issues as best he could. When it came to granting fiefs in the territories of the second duchy, for example, he simply stated it as a fact that he had come into the relevant title. To cite just one instance, the diploma investing Franchino Rusca with the fiefs of Locarno and Travaglia in 1451 declared that following the death of Filippo Maria the right to renew Rusca's fiefs belonged in law to Francesco Sforza because he had succeeded to both ducal titles<sup>18</sup>.

<sup>14</sup> «Statuerunt nobilissimi cives populares et plebei, legitime congregati, lata lege regia sive ducali in prefatum illustrissimum Franciscum Sfortiam, eiusque descendentes et posteros imperpetuum, omnem transferre potestatem, dominium et ducatum annexum»: Colombo, *L'ingresso* cit., p. 89; see also Cusin, *L'impero e la successione* cit., p. 71, n. 114.

<sup>15</sup> None of the three chief jurists who attempted to interpret the Sforza position, Andrea Barbazza, Alessandro Tartagni, and Francesco Corte, used arguments based on the *lex regia*: see Black, *Absolutism* cit., p. 97-105.

<sup>16</sup> The donation is published in D. Giampietro, *La pretesa donazione di Filippo Maria Visconti a Francesco Sforza*, in «Archivio storico lombardo», 1 (1876), p. 641-645; the authenticity of the donation was dispelled by Cusin, *L'impero e la successione* cit., p. 54-58.

<sup>17</sup> «Te et filios descendentesque (...) in verum ducem et duces, comitem et comites successive ordine infrascripta ergimus (...) dictarum civitatum Mediolani ac Papie, necnon et Anglerie et totius diocesis, districtus, territorii earundem ac etiam omnium aliarum civitatum et terrarum et locorum ac iurium quorumcumque quas et que de presenti tenes et possides»: ASMi, Sforzesco, Alemagna 569, p. 43-4, 53 and 69 (my italics).

<sup>18</sup> «Cumque prefatus illustrissimus dominus Filippus Maria Anglus dux Mediolani decesserit eique in ipsis ducatus et ducatum [ed. ducatu et ducatus] dignitatibus successerit illustrissimus dominus, dominus Franciscus Sforcia Vicecomes, Dux Mediolani etc., et ad eum legitime per-

Naturally, the lack of a title in the areas outside Milan, Pavia and Cremona was not something Francesco wished to advertise. To bolster the impression that he did hold the second duchy he called himself «Dux Mediolani etc., Papiæ Angleriaëque Comes ac Cremonæ dominus». «Duces et principes Mediolani etc.» was the designation assigned by Wenceslas in 1396, so that with the use of that *etc.* Francesco contrived to present himself as duke of «the other places» as well as of Milan<sup>19</sup>. Only rarely, indeed, in accordance with strict protocol, was the *etc.* omitted from his title. In the agreements with the Marquis of Monferrat drawn up as part of the Peace of Lodi, for example, Francesco was called simply «Dux Mediolani, Papiæ Angleriaëque Comes ac Cremonæ dominus»<sup>20</sup>. But in the Treaty of Lodi itself, as in documents issued by his chancery, *etc.* was added. The implications of that crucial *etc.* were doubtless lost on most contemporaries, but any lack of understanding on the part of the wider public was to be welcomed. The Sforza's legerdemain with regard to their title was further disguised when their style was abbreviated to «Dux Mediolani etc.», where “etc.” was a blanket reference to all their other titles, both legitimate and pretended. Perhaps it was as part of the same strategy that the diploma covering the second duchy, as it appears in the collection of documents mentioned above, was entitled «Instrument for the duchy of Milan (*Privilegium ducatus Mediolani*)» although nowhere did Wenceslas himself give the diploma of 1396 that name. Conceivably it was hoped that the description of the second duchy as *Ducatus Mediolani* would encourage the impression that election in Milan itself included all the other cities.

Further scope for masking the problem of the missing title arose from confusion over what was meant by the term «duchy of Milan». Those who lived under ducal rule were fully aware that the duchy itself was a separate entity: citizens of Como, for example, claimed that should be permitted to import wine and grain freely «from the city and duchy of Milan into the city and district of Como»<sup>21</sup>; Galeazzo Maria, writing in 1468, agreed to the request from the Lake Lugano towns of Morcote and Vicomorcote that there should be no extra duties on food «either from our duchy of Milan or from the territories of the said valley»<sup>22</sup>. Nevertheless, the duchy of Milan could sometimes mean all the duke's territories. Francesco's own officials occasionally referred simply to «nostro ducato de Mediolano» and to «li privilegij del ducato» when they meant the entire conglomerate. Imperial negotiators

tineat recognitio et renovatio predictorum feudorum, investituram et concessionum de quibus supra fit mentio»: L.M. Stampa and G. Chiesi, eds. *Ticino ducale: il carteggio e gli atti ufficiali*, Bellinzona 1993-2006, I, pt 1, doc. 106 (24 April 1451), p. 82.

<sup>19</sup> See the Treaty of Lodi, published in J. Dumont, *Corps universel diplomatique du droit des gens*, Amsterdam 1726-31, III, pt. 1, p. 202-206.

<sup>20</sup> See the treaty of 17 July 1454 and its ratification on 7 August 1454 (Dumont, *Corps universel cit.*, III, pt. 1, p. 211-216).

<sup>21</sup> G. Rovelli, *Storia di Como*, Como 1789-1802, III, pt 1, p. 582.

<sup>22</sup> *Ticino ducale cit.*, II, pt 1, doc. 610 (24 March 1468), p. 526.

contended that «el ducato de Milano» had devolved to the empire by which they meant all Filippo Maria's lands and titles<sup>23</sup>. Guicciardini's *Florentine Histories* described Florence's agreement with the French for the defence of the «ducea di Milano» again meaning all the territories<sup>24</sup>. Understandably, when outsiders wanted to allude to the Sforza territorial state, they were tempted to simplify what was in truth a complex hotchpotch. Francesco believed that if Frederick III could be persuaded to grant any sort of investiture, a comprehensive title would be highly desirable. In 1461 the aim of the ongoing negotiations with the imperial court was described as «to procure an investiture of the duchy of Milan and Lombardy», which would neatly cover the Sforza dominions<sup>25</sup>. Machiavelli in his *Florentine Histories*, indeed, called Francesco «duke of Lombardy»<sup>26</sup>. But the fact remained that neither he nor his immediate successors had any overall title in the area of Wenceslas's second duchy.

To compensate for his lack of a ducal title outside the city, Francesco Sforza made the most of his status as duke of Milan, focusing his subjects' attention on the glories of the ducal rank itself. He ordered that the feast of San Fortunato, 26 February, should be celebrated as the day upon which he had been welcomed as ruler by the people of Milan, ceremonies being held not just in the city itself, but in other parts of the dominions. In the oration given on that day at the university of Pavia in 1466 Baldassarre Rasini, professor of rhetoric, commemorated the fact that 26 February was «that happy, happy day when the ducal *insignia* were conferred on our divine Caesar»<sup>27</sup>. Rasini's reference to Sforza as Caesar throughout his oration supported the suggestion too that Francesco Sforza was head of an independent territorial unit, an idea that was coming to be accepted in legal circles<sup>28</sup>.

Since the Sforza had no actual title in the lands outside Milan, Pavia and Cremona, their authority had to have a different basis: there their rule was based on agreed contracts or *capitoli*. In a notable article, first published in 1978, Giorgio Chittolini drew attention to the terms of agreement (*capitoli di dedizione*) drawn up between Francesco Sforza and his subjects as he took control in each area of his dominions; Chittolini highlighted the kinds of local

<sup>23</sup> These examples can be found in the list of missions to Frederick III in F. Cusin, *Le aspirazioni straniere sul ducato di Milano e l'investitura imperiale (1450-1454)*, in «Archivio storico lombardo», n.s. 1 (1936), p. 277-369, doc. 1, p. 360-368.

<sup>24</sup> *Storie fiorentine dal 1378 al 1509*, R. Palmarocchi ed., Bari 1931, ch. 19, p. 196.

<sup>25</sup> Cusin, *Le aspirazioni straniere* cit., doc. 1, p. 360.

<sup>26</sup> Book 7, chapter 7.

<sup>27</sup> «Nam hic ille fuit dies iucundissimus, iucundissimus inquam hic fuit ille dies, ducales qui infulas divo Cesari nostro contulit». The oration is published by G. Cristina, *Un panegirico del professore pavese Baldassarre Rasini per Francesco Sforza pronunciata davanti all'Università di Pavia*, in «Bollettino della Società pavese di storia patria», 99 (1999), p. 46-116, here p. 116. See also A. Sottili, *L'università di Pavia nella politica culturale sforzesca*, in *Gli Sforza a Milano e in Lombardia e i loro rapporti con gli Stati italiani ed europei (1450-1535)*, Milano 1982, p. 519-563, here p. 551.

<sup>28</sup> Black, *Absolutism* cit., p. 99 ff.

concerns revealed by the *capitoli*, in particular, conflicts between small communities and the dominant neighbouring city<sup>29</sup>. Further attention has been given to these agreements in recent years<sup>30</sup>. *Capitoli* were presented in the form of a petition with a list of demands, to each of which the duke responded. The agreements shared many common features: requests for greater freedom to import or export agricultural products, a fairer distribution of taxes and the abolition of the requirement for country-dwellers to use urban courts appeared frequently. Guarantees were demanded in relation to the buying up of land by citizens of the dominant city because that trend had led to conflict over the tax liabilities; there were concerns over the billeting of troops and similar burdens<sup>31</sup>. The *capitoli* of Lodi agreed on 25 September 1449, for example, requested that the city's imperial privileges should be honoured, the city's jurisdiction over subject communities respected and Visconti grants of autonomy cancelled<sup>32</sup>. In Como's agreement, of 11 March 1450, besides the demand that the city's «provisiones ordines et statuta» should be observed, it was stipulated that all grants, sales, concessions and privileges made by the Visconti should be annulled<sup>33</sup>. The city of Monza had long enjoyed independence from Milan, a status which the citizens naturally insisted should be maintained: the duke was to respect all their privileges, statutes and provisions, as well as the «mixto et mero imperio et iurisdictione separatim dalla città di Milano» as the Visconti had done<sup>34</sup>.

At the point when they drafted these *capitoli*, individual communities, which included even small rural villages, were in no position to resist Sforza armies. Nevertheless, Francesco mostly accepted their terms. Of the requests mentioned above, he refused only one specific point: Como's demand for the abolition of all Visconti decrees was met with the response that the duke would appoint a committee of lawyers to identify any which were «honesta et iusta» as worth saving. The rest of the clauses were accepted in full, along with most of the other requests submitted by local inhabitants. Communities

<sup>29</sup> G. Chittolini, *I capitoli di dedizione delle comunità lombarde a Francesco Sforza: motivi di contrasto fra città e contado*, in *Felix olim Lombardia. Studi di storia padana dedicati dagli allievi a Giuseppe Martini*, Milano 1978, p. 673-698; (republished in G. Chittolini, *Città, comunità e feudi negli stati dell'Italia centro-settentrionale (secoli XIV-XVI)*, Milano 1996). The article includes a list of the dates of individual *capitoli* and where they can be found.

<sup>30</sup> Of particular importance is the work of M. Della Misericordia, 'Per non privarci de nostre raxone, li siamo stati desobidienti.' *Patto, giustizia e resistenza nella cultura politica delle comunità alpine nello stato di Milano (XV secolo)*, in C. Nubola and A. Würzler eds., *Forme della comunicazione politica in Europa nei secoli XV-XVIII. Suppliche, gravamina, lettere*, Bologna 2004, p. 147-215.

<sup>31</sup> Chittolini, *I capitoli* cit., p. 678-681.

<sup>32</sup> The *capitoli* of Lodi are in C. Vignati ed., *Codice diplomatico laudense*, 2 (Lodi Nuovo), pt. 1, Milano 1883, p. 518-520; here p. 519.

<sup>33</sup> The agreement is published in Rovelli, *Storia di Como* cit., III, pt. 1, p. 580-587; here p. 582 and 585.

<sup>34</sup> For these *capitoli* see A.F. Frisi, *Memorie storiche di Monza e sua corte*, Milano 1794, II, p. 200-201; here p. 200. These terms were agreed with the duke on 19 March 1450, even after the submission of Milan itself.

of all sizes stood to benefit, the promise to reduce the levies on salt, wine and grain in Parma and Lodi being matched by the easing of duties on beans and iron in the rural villages of Valle Vigizzo<sup>35</sup>. In spite of his dire finances Francesco was willing to sign away even future revenues in exchange for these contracts. That was because, despite his military ascendancy, Francesco would lack the basic authority to govern unless he agreed individual covenants with local communities.

But there is another side to these agreements: they are evidence that in the area of the second duchy the status of the Sforza was very different from what it was in Milan, Pavia and Cremona<sup>36</sup>. Milan and Pavia had also agreed *capitoli* with Francesco when he first took control of these cities before his election as duke and count respectively<sup>37</sup>. The terms were similar to those of other communities. In their *capitoli* of 26 February 1450 the citizens of Milan requested that, despite a contrary decree, they should be allowed to seek benefices and privileges from the pope and emperor without the government's permission<sup>38</sup>. Another demand was that all their statutes should be observed (until such time as they were reformed)<sup>39</sup>. The people of Pavia insisted, in the *capitoli* agreed on 18 September 1447, that Sforza should honour all imperial privileges, their aim being to ensure that their territorial rights were restored<sup>40</sup>. Resentment of the previous regime was revealed in Pavia's demand that local statutes should be observed while all Visconti decrees were to be cancelled<sup>41</sup>. But in those cities the Sforza title was hereditary: the record of Francesco's election as duke of Milan was peppered with references to his descendants<sup>42</sup>. With his death, therefore, the Milanese *capitoli* would become redundant and in fact were not included in the collection of key documents described above. Their omission implied that, now that Francesco had been elected ruler, his descendants would no longer depend upon any such contract. Indeed, when Galeazzo Maria entered the city on 20 March 1466 after

<sup>35</sup> Francesco's response to Parma's demand for tax reduction was «Concedit ut petitur dum modo reformatio predicta facta tempore libertatis non diminuat solutionem consuetam fieri tempore domini ducis [Filippo Maria Visconti]». The *capitoli* are published in A. Pezzana, *Storia della città di Parma*, Parma 1842, II, p. 49-59; here p. 50. Lodi's demands for reductions in duties on salt and grain were conceded (*Codice diplomatico* cit., p. 519). He promised the inhabitants of Valle Vigizzo that his taxes would not exceed those of Filippo Maria: see C. Cavalli, *Cenni statistico-storici della Valle Vigizzo*, III, Torino 1845, p. 185.

<sup>36</sup> Cremona would remain under Bianca Maria's rule on Francesco's death and then go automatically to Galeazzo Maria.

<sup>37</sup> See notes 1, 4 above.

<sup>38</sup> Formentini, *Il ducato* cit., p. 180. The request contravened the decree of 1386: see *Antiqua ducum Mediolani decreta*, Milan 1654, p. 115.

<sup>39</sup> «Item che gli statuti dessa comunità cusi civili como criminali et de mercadanti et cadauni altri statuti siano servati fin a tempo che saranno riformati»: Sickel, *Beiträge* cit., p. 255.

<sup>40</sup> The *capitoli* are published in Robolini, *Notizie* cit., VI, pt. 1, p. 292-312; here p. 292-293.

<sup>41</sup> Robolini, *Notizie* cit., VI, pt. 1, p. 308.

<sup>42</sup> The Milanese *capitoli di dedizione* included a clause on the succession too: the duchy was to go Bianca Maria and her descendants «così maschi come femine»; see Formentini, *Il ducato* cit., p. 182.

Francesco's death he was immediately acclaimed duke by the General Council. His election in Pavia, too, provided Francesco with a hereditary title<sup>43</sup>. In fact Galeazzo Maria was made count of Pavia at Francesco's own coronation ceremony; he in turn bestowed that honour on his newborn son three years later. When, on Giangaleazzo Maria's accession, two envoys were sent to ask for a confirmation of the terms agreed with Francesco, they were turned down<sup>44</sup>. That was despite an attempt to persuade the regency government of the exceptional merits of their *capitoli*, which, the Pavians argued, benefited the public at large as well as individual citizens<sup>45</sup>. There would be no new *capitoli* in Pavia until the arrival of Louis XII and the start of a new regime<sup>46</sup>.

Where Francesco enjoyed only a contractual relationship with the inhabitants, by contrast, there was no automatic right of succession: individual *capitoli* had been agreed with him personally, making no mention of inheritance<sup>47</sup>. The many common features shared by the terms of agreement drawn up everywhere in Francesco Sforza's early years disguised this underlying difference, which became obvious only with his demise. After his death and, in turn, after that of Galeazzo Maria, those who lived outside the hereditary possessions were free to demand fresh *capitoli*. Writing in September 1468, Galeazzo Maria described how, having come into the duchy of Milan itself by right of inheritance, he had been asked by the inhabitants of Sonvico whether he wished to confirm the *capitoli* granted by his father in 1450<sup>48</sup>. The principle applied even in such key cities as Como, Parma and Monza, which had formed part of Visconti dominions since the early fourteenth century. On 24 March 1466, four days after Galeazzo Maria's arrival in Milan following Francesco's death, the people of Como sent envoys to Bianca Maria and the new duke to present, along with expressions of loyalty and the promise of a renewed oath of loyalty, their list of *capitoli*<sup>49</sup>. The *capitoli* of Monza, similarly, were reconfirmed, along with their earlier privileges, by Giangaleazzo Maria (although he refused to renew the dispensations granted by Francesco

<sup>43</sup> See note 4 above.

<sup>44</sup> Robolini, *Notizie* cit., VI, pt. 1, p. 99.

<sup>45</sup> Just four days after Galeazzo Maria's assassination the Pavians replied to the government's objections to their *capitoli*: «Però prima tendeno ad conservatione del stato al quale tuto questo populo è affectionato quanto may fosse subdito versso il suo signore et però dicti capituli tendeno ad bonifficatione in generale de tuti ly soy subditi et in singulare de molte persone che per quelli se confideno haver molte comoditate» (ASMi, Sforzesco 856, 29 December 1476)

<sup>46</sup> C. Magenta, *I Visconti e gli Sforza nel Castello di Pavia*, Milano 1883, I, p. 556.

<sup>47</sup> Oaths of loyalty, demanded on a new accession, as well as at other times, did promise obedience to the duke's successors, but only on the terms established by *capitoli*; indeed *capitoli* with their many advantageous conditions, were usually agreed after the oath of loyalty had been sworn: see Della Misericordia, 'Per non privarci' cit., p. 184-185.

<sup>48</sup> «Post dominationis sue discessum nobis semper dolendum, in inclytum Mediolanensem ducatum paterno et hereditario iure assumpti, illustrissima domina mater nostra colendissima nosque ab hominibus ipsis requisiti fuimus ut ipsa capitula et concessionones nos itidem confirmare et approbare velemus»: *Ticino ducale* cit., II, pt. 1, doc. 742 (12 September 1468), p. 620.

<sup>49</sup> Rovelli, *Storia di Como* cit., III, pt. 1, p. 325.

regarding customs duties)<sup>50</sup>. With a new accession, Parma too presented further conditions. On 1 February 1477, within six weeks of Galeazzo Maria's assassination, the citizens presented the regency government with a series of twelve demands: the extortionate requisitions of the previous period, for example, should be repaid and the tax burden reduced; except for the podestà, no official should remain in office for more than a year; judicial cases should be heard locally. These and the other points received a largely favourable response<sup>51</sup>. After Galeazzo Maria had freed himself from joint rule with Bianca Maria, he agreed to confirm the new set of *capitoli* presented to him by citizens of Soncino on 7 September 1468, guaranteeing the town's ancient privileges, statutes and jurisdiction; their *capitoli* were renewed again on 22 March 1477 following the accession of Giangaleazzo Maria<sup>52</sup>. Similarly, on 2 March 1477 the regency government agreed to confirm all the privileges and statutes of Bormio in Valtellina, reducing its debt to the treasury, and endorsing the exemptions on duties granted by earlier dukes<sup>53</sup>. Significantly, in Piacenza, news of the death of Francesco was greeted with the refusal of the *contadini* to pay their taxes. «They are poor – it was explained –, and believe that, following of the death of the *signore*, they will not have to pay ever again»<sup>54</sup>. However securely enmeshed in the ducal dominions they were, the inhabitants of these places appeared to believe that the acknowledgement of a new ruler was voluntary.

Most later *capitoli* were much the same as those agreed with Francesco Sforza, but there could be additional clauses. On the accession of Giangaleazzo Maria, there were new demands from Como. The request that duties on wine which were being transmitted to the ducal treasury should go instead to communal coffers became the focus of lengthy negotiations, the duke eventually giving way. In addition, in order to save money, the people of Como wanted the offices of *podestà* and *commissario* to be combined, a demand that was finally granted in 1484<sup>55</sup>. In 1477, too, as well as a confirmation of their earlier *capitoli*, the people of Mattarella wanted their fortifications to be strengthened and the duty on their iron trade within the Sforza dominions to be abolished<sup>56</sup>. The citizens of Bormio, too, had new demands<sup>57</sup>. *Capitoli di dedizione* were not simply one-off acts of submission: in their dealings with central government local communities regularly referred to the particular terms that had previ-

<sup>50</sup> Frisi, *Memorie* cit., II, p. 207-209.

<sup>51</sup> Pezzana, *Storia* cit., IV, p. 7-8.

<sup>52</sup> F. Galantino, *Storia di Soncino con documenti*, Milan 1869-1870, III, p. 274; the capitoli of 1468 are published as doc. 85, p. 274-276.

<sup>53</sup> G. Colò, *Cronologia compendiata dei privilegi, decreti dominicali, ordini e rescritti del Contado di Bormio dal 1365 al 1777*, in «Periodico della società storica per la provincia e antica diocesi di Como», 9 (1892), p. 129-164, p. 137.

<sup>54</sup> «Li homini sono poveri et credono di non pagare may più per la morte del signore» (26 March 1466, ASMi, Sforzesco 861).

<sup>55</sup> Rovelli, *Storia di Como* cit., III, pt. 1, p. 340-341.

<sup>56</sup> Cavalli, *Cenni* cit., III, p. 193 and 196.

<sup>57</sup> See Della Misericordia, «*Per non privarci*» cit., p. 186.



ously been agreed. In 1453 the inhabitants of Morbegno in the Valtellina wrote to Francesco that they would not put up with infringement of their agreement, protesting in 1477 that, «contrary to the *capitoli* promised to this community by your predecessors», the boundaries of their jurisdiction had been changed<sup>58</sup>. At some point after Francesco's death the town of Borgo San Donnino wrote to complain that the citizens were being too heavily taxed. «On the basis of the *capitoli*», they wrote, «they owed 500 lire imperiali for their grain and wine taxes» but «contrary to the terms of these *capitoli*» that sum had been increased to 1200 lire<sup>59</sup>. The people of Corte di Mattarella in the Val d'Ossola opposed Galeazzo Maria's increase in taxes on the grounds that they had *capitoli* which he himself had conceded and confirmed<sup>60</sup>. Such was the cost loss of the second duchy's loss.

The less favourable status of the Sforza in the area covered by the second duchy, as compared to the hereditary dominions, continued to rankle. By 1494 the international scene had changed sufficiently for Ludovico il Moro to attempt to rectify the anomaly. Frederick III's death in 1493 had removed a major obstacle. The new emperor Maximilian, desperate for funds with which to pursue his Italian ambitions, was willing to grant an investiture to Ludovico himself, marrying the late Galeazzo Maria's daughter Bianca Maria in exchange for a dowry of 400,000 ducats. The resulting diploma was issued on 5 September 1494 even before the death of the then duke, Giangaleazzo Maria. The diploma more than rectified earlier deficiencies: Ludovico was invested with «the duchies of Milan and of Lombardy and of the other cities, and with the counties of Pavia and Angera and all their territories as well as of all the other cities, lands and places which are more fully and specifically listed and included in the diplomas and privileges granted by Wenceslas to Giangaleazzo»<sup>61</sup>. The document reflected Ludovico's best hopes, containing as it did a flattering account of his own merits and the transfer of broad powers, as well as the specific title of duke in the lands covered by Wenceslas's second investiture<sup>62</sup>. But, on Maximilian's orders, the new diploma was to remain for the moment secret, so that, when Giangaleazzo Maria did die shortly afterwards (21 October 1494), Ludovico's status was more precarious than that of any of the other Sforza. He could not legitimately succeed in the hereditary territories because Giangaleazzo had a three-year-old son (Francesco, «il Duchetto»); neither could he acquire any titles by means of popular election for fear of offending Maximilian. He therefore resorted to

<sup>58</sup> *Ibidem*, p. 196 and 193.

<sup>59</sup> ASMi, Comuni 12, Borgo San Donnino, no date.

<sup>60</sup> 4 April 1469: see Della Misericordia, '*Per non privarci*' cit., p. 210; the author gives many more such examples from the Alpine area.

<sup>61</sup> The diploma is published in J.C. Lünig, *Codex Italiae diplomaticus*, Frankfurt and Leipzig 1725-1735, I, cols. 483-494; here cols. 487-488. See Black, *Absolutism* cit., p. 92-93.

<sup>62</sup> Lünig, *Codex* cit., I, col. 495. Ludovico later mentioned the form of the investiture he wanted: «havendo dato questa estate la copia et instrumento al tesauro de Burgogna la poterai...fare cercare per sequire quella», Calvi, *Bianca Maria Sforza* cit., p. 78.

having himself proclaimed ruler in his council: he had acceded to the principality with the consent of all the councillors and leading citizens, so he declared<sup>63</sup>. He then wrote to all his dominions simply ordering everyone to accept him and celebrate<sup>64</sup>. The following spring Ludovico's reliance on the publication of the imperial diploma as a solution to the problem of the second duchy appeared to founder. In the wake of the League of Venice, Maximilian's priority was to curry favour in Germany so as to win support for his Italian campaign. In order not to offend the princes, the investiture as published on 5 April 1495 was much less favourable than the earlier version. Ludovico was given only the duchy of Milan and the counties of Pavia and Angera «along with their other cities and lands», an ambiguous phrase that in no way compensated for the absence of any express reference to the second duchy. Happily for Ludovico, the final confirmation of his diploma, as issued by Maximilian on 25 November 1495, comprised the original text<sup>65</sup>.

The second duchy had apparently been restored. But it was not that simple. Later on, when Emperor Charles V granted Francesco Sforza II his ducal diploma on 30 October 1524, that instrument lacked any reference to the second duchy, investing Francesco only 'de dicto ducatu Mediolani ac Comitatus Papiæ et Angleriae eorumque pertinentiis.'<sup>66</sup> The emperor had taken as his model, not Ludovico's original diploma (which had referred specifically to the second duchy), but the document issued in April 1495 that had included only the duchy of Milan, along with Pavia and Angera. Cities which lay beyond the boundaries of those possessions were again excluded from the imperial title so that they felt free to request further *capitoli*: the people of Como, for example, presented Francesco II with new *capitoli* in May 1531 following the duke's restoration in 1529 in the aftermath of his breach with Charles V<sup>67</sup>. The issue of the second duchy was not finally resolved until after the death of Francesco II in 1535 and the end of the Sforza dynasty. In the investiture of 5 July 1536, whereby, having at last devolved back to the empire, the Sforza titles were given by Emperor Charles V to his son Philip, the problem of the second duchy was circumvented. Philip was invested with the «ducatus, status et dominium Mediolani»<sup>68</sup>; this comprised, as the diploma explained, the duchy of Milan, the counties of Pavia and

<sup>63</sup> ASMi, Registri ducali 183, p. 147: «nos omnium procerum et primorum populorum consensu ad eiusmodi principatum assumpti fuerimus». See Vianello, *Gli Sforza* cit., p. 257-262.

<sup>64</sup> The obedient replies of the various subject cities are contained in ASMi, Sforzesco 1469.

<sup>65</sup> This version, which included the rights of succession of Ludovico's descendants, can be found in Dumont, *Corps universel* cit., III, pt. 2, p. 333-336.

<sup>66</sup> The diploma can be found in Dumont, *Corps universel* cit., IV, pt. 1, p. 398-399.

<sup>67</sup> Rovelli, *Storia di Como* cit., III, pt. 1, p. 468.

<sup>68</sup> As Nicolai Rubinstein pointed out, *status* in this period could mean dominion in the sense of territorial possessions: see *Notes on the word stato in Florence before Machiavelli*, in J.G. Rowe and W.H. Stockdale, eds., *Florilegium Historiale. Essays presented to Wallace K. Ferguson*, Toronto 1971, p. 313-26, here p. 320-321; the article is republished in N. Rubinstein, *Studies in Italian History in the Middle Ages and the Renaissance*, I, *Political Thought and the Language of Politics*, G. Chiappelli ed., Rome 2004, p. 151-163, here p. 162.

Angera, and all the rights and territories which by law or custom or in any other way, at that time or in the past, belonged to those places or to those dukes and counts in accordance with ancient investitures. Reference to the *status* or dominion of Milan and to all the places included in «ancient investitures» represented an attempt to create a homogeneous authority in contrast to the contracts and conditions with which the Sforza had had to contend<sup>69</sup>.

<sup>69</sup> Thereafter the Sforza's three remaining hereditary titles (covering Milan, Pavia and Angera) survived intact but there was no further attempt to revive the second duchy.



# Notes on the date and genesis of Machiavelli's *De principatibus*

by Robert Black

Machiavelli's letter to Francesco Vettori describes the contents of *The Prince* on 10 December 1513:

io ho [...] composto uno opusculo *De principatibus*, dove io mi profondo quanto io posso nelle cogitazioni di questo subbietto, disputando che cosa è principato, di quale spezie sono, come e' si acquistano, come e' si mantengono, perché e' si perdono<sup>1</sup>.

There is good reason for thinking that Machiavelli had completed only the first eleven chapters of the text when he thus described the treatise to Vettori. The summary in the letter corresponds to the contents of chapters 1 to 11: what kinds (hereditary [2], mixed [3], previously principalities [4], formerly republics [5], civic [9], ecclesiastical [11]); how acquired (through the prince's own "virtue" and arms [6], through others' arms and by fortune [7], by crime [8]), how preserved [10], how lost [3, 4, 5, 6, 7, 8, 9, 10]). Chapter 11 opens with what seems to be the start of a conclusion: «Restaci solamente al presente a ragionare de' principati ecclesiastici<sup>2</sup>» and ends with what has the appearance of a primitive conclusion: «Ha trovato adunque la santità di papa Leone questo pontificato potentissimo: il quale si spera, se quegli [sc. Alexander VI and Julius II] lo feciono grande con le arme, questo con la bontà»<sup>3</sup>.

Machiavelli says in the letter to Vettori that he has not yet finished the treatise, which still needs further filling out and refining: «tuttavolta io l'in-grasso e ripulisco»<sup>4</sup>. Machiavelli was possibly still hard at work a fortnight later, when Vettori replied on 24 December to the effect that he had not yet seen the text:

<sup>1</sup> N. Machiavelli, *Lettere*, ed. by F. Gaeta, Torino 1984, p. 426.

<sup>2</sup> N. Machiavelli, *Il principe*, ed. by G. Inglese, Torino 1995, p. 73 (ch. 3.1). All references to the text of *The Prince* will be given according to this edition, based on Inglese's 1994 critical edition, which I prefer to the critical edition by M. Martelli, Roma 2006, which, in my view, tends to overindulge in conjectural emendation.

<sup>3</sup> *Il Principe*, p. 77 (ch. 3.18). See *De principatibus*, ed. by G. Inglese, Roma 1994, p. 2-3.

<sup>4</sup> *Lettere*, p. 427.

Voi mi scrivete (...) che avete composta certa opera di stati. Se voi me la manderete, l'arò cara; e ancora che non sia drento, iudico che sia conveniente iudichi la cosa vostra; non di meno, in quello mancherà la sufficienza e il iudicio, suplirà l'amore e la fede<sup>5</sup>.

Machiavelli had sent *The Prince* to Vettori by 18 January 1514, when the latter replied, saying that he had seen only chapters and not the entire work: «Ho visto e' capitoli dell'opera vostra, e mi piacciono oltre a modo; ma se non ho il tutto, non voglio fare iudicio risoluto<sup>6</sup>». Machiavelli's work on the treatise after 10 December evidently involved more filling out (*ingrassare*) than polishing (*ripulire*): the ultimate text is hardly a finished piece, resembling his letters rather than polished works such as *The Art of War* and the *Florentine Histories*. The final version of *The Prince* contains numerous latinisms, typical of chancery style<sup>7</sup> and found abundantly in his letters, but absent in his more refined works; the chapter titles have remained in Latin, in contrast to the Italian titles of the polished texts; there are numerous idiosyncracies, particularly of syntax, indicating that the text remained a rough draft, hardly subjected to scrupulous revision; where first versions of Machiavelli's works survive (for example, in the case of the *Florentine Histories*), it is clear that Machiavelli submitted his early efforts to a fastidious process of stylistic refinement, unlike the text of *The Prince*<sup>8</sup>. With regard to filling out (*ingrassare*), on the other hand, many topics of the second part (beginning with chapter 12) emerge as elaborations and developments of themes raised in part one: fraud [18], love or fear of subjects [17], magnanimity [19], liberality [16], mercenaries and indigenous armies [12-14] – conveniently listed in chapter 7 when he sums up Cesare Borgia's suitability as a model new prince:

Chi adunque iudica necessario nel suo principato nuovo assicurarsi delli inimici, guadagnarsi delli amici; vincere o per forza o per fraude; farsi amare e temere da' populi, seguire e reverire da' soldati; spegnere quelli che ti possono o debbono offendere; innovare con nuovi modi gli ordini antiqui; essere severo e grato, magnanimo e liberale; spegnere la milizia infedele, creare della nuova; mantenere l'amicizie de' re e de' principi in modo ch'e' ti abbino a benificare con grazia o offendere con rispetto<sup>9</sup>.

Chapter 12 opens with another introductory summary, indicating that Machiavelli was beginning a new section of the work:

Avendo discorso particolarmente tutte le qualità di quelli principati de' quali nel principio proposi di ragionare, e considerato in qualche parte le cagioni del bene e del male essere loro, e mostro e' modi con e quali molti hanno cerco di acquistargli e tenergli (...) <sup>10</sup>.

<sup>5</sup> *Ibidem*, p. 433.

<sup>6</sup> *Ibidem*, p. 441.

<sup>7</sup> B. Richardson, *The Prince and its early Italian readers*, in *Niccolò Machiavelli's The Prince. New Interdisciplinary Essays*, ed. by M. Coyle, Manchester 1995, p. 18-39 (p. 20).

<sup>8</sup> F. Chabod, *Scritti su Machiavelli*, Torino 1964, p. 142-43.

<sup>9</sup> *Il Principe*, p. 52 (ch. 7.43). See Inglese 1994, p. 3.

<sup>10</sup> *Ibidem*, p. 77-78 (ch. 12.1). See Inglese 1994, p. 3.

Indeed, the phrase «in qualche parte» recalls his intention to fill out the text, as articulated in the letter to Vettori, suggesting that Machiavelli had found his treatment in the previous chapters incomplete and that he now aimed to put those deficiencies right.

The latest explicit and direct reference to an historical event in the text is to the burning of Mestre<sup>11</sup>, which occurred just before the battle of Vicenza on 7 October 1513. It is clear that Machiavelli's efforts to fill out the text did not extend beyond the spring of 1514. In the last chapter, addressing the Medici family explicitly, Machiavelli declares that it is necessary to assemble an army of their own men, thus looking forward to the revival of the Florentine militia, suppressed after the fall of the Soderini republic:

Volendo adunque la illustre Casa vostra seguitare quelli eccellenti uomini che redimerono le provincie loro, è necessario innanzi a tutte le altre cose, come vero fondamento d'ogni impresa, provvedersi d'arme proprie<sup>12</sup>.

Leo X was envisaging the reestablishment of this militia in January and February 1514, and it was formally reconstituted by the Florentine Balìa the following 19 May. It would have made no sense for Machiavelli to have called for the revival of a military institution that had already been reinstated, and so the final chapter must have been completed by May 1514<sup>13</sup>. It is arguable,

<sup>11</sup> *Ibidem*, p. 172 (ch. 26.19).

<sup>12</sup> *Ibidem*, p. 173 (ch. 26.20).

<sup>13</sup> *De principatibus*, p. 5; *Il Principe*, p. IX. This reading was first proposed in 1981 by G. Sasso, *Il Principe ebbe due redazioni?*, reprinted in his *Machiavelli e gli antichi*, Milano 1988, vol. II, p. 197-276 (p. 206-208); see also G. Inglese, *Il principe (De principatibus) di Niccolò Machiavelli*, in *Letteratura italiana. Le opere*, ed. by A. Asor Rosa, I, Torino 1992, p. 889-941 (p. 891-892), revised in his *Per Machiavelli. L'arte dello stato, la cognizione delle storie*, Roma 2006, ch. 2, p. 49, 229-230, where he replies to objections raised by Mario Martelli in his *Saggio sul Principe*, Roma 1999, p. 287-288. The objection by F. Bausi to this reading is that Machiavelli was not alluding to the Florentine militia here, since such a force could not have been sufficient to expel the barbarians from Italy; rather, according to Bausi, this call to arms referred to a national Italian army, to be led by the Medici, as is suggested in the subsequent phrase (26.21, p. 173) «per potersi con la virtù italica defendere da li esterni» (F. Bausi, *Machiavelli*, Roma 2005, p. 198). However, Machiavelli suggests that this call to arms was the preliminary first step («inanzi a tutte le altre cose»), not that it represented final force that would take on the foreign occupiers of Italy. What he appears to suggest is that any attempt to remove the foreigners will fail unless the Medici start by getting together their own militia. Machiavelli makes no comment here about the ultimate force, except that it should, he hopes, be Italian; he does not suggest when an Italian army will be raised, only that the Medici need to start with their own militia. Nor does Bausi take into account the visionary dimension of the call to Italian arms: as with the overall thrust of the chapter, Machiavelli is dreaming of an Italian military renaissance, in which, nevertheless, the call for an indigenous Florentine rearmament has the appearance of a more down-to-earth and practical preparation for this ultimate almost other-worldly aspiration: «perché non si può avere né più fidi, né più veri, né migliori soldati» (26.29, p. 173). The adherence by H. Baron, *The Prince and the puzzle of the date of chapter 26*, in «Journal of Medieval and Renaissance Studies», 21 (1991), p. 83-102, to the widely held view that the last chapter of *The Prince* was a significantly later addition (see *The Prince*, ed. by W. Connell, Boston 2005, p. 19) is refuted by J. Najemy, *Between Friends. Discourses of Power and Desire in the Machiavelli-Vettori Letters of 1513-1515*, Princeton 1993, p. 184-185. H. Jaeckel, in his whimsical *What is Machiavelli exhorting in his Exhortatio? The extraordinaries, in Niccolò Machiavelli, politico*

indeed, that Machiavelli had finished his substantial rewriting of the text by 16 April 1514, when he offered a new and entirely negative view of Ferdinand of Aragon in a letter to Vettori<sup>14</sup>: «The same actions and methods that Machiavelli had once [*in the letter of 29 April 1513 and in The Prince*] interpreted as the foundation of Ferdinand's great reputation, prestige, and authority, as the source of the amazement and wonderment that he inspired in all who beheld him, have now become traps («tranelli»): sordid tricks entirely lacking in mystery or cleverness and inciting only disgust and hostility»<sup>15</sup>.

Doubts have been raised whether Machiavelli ever presented *The Prince* to Giuliano de' Medici. The fact that Vettori, himself intimately involved with the Medici in Rome as Florence's resident ambassador, ceased to mention the work in his correspondence with Machiavelli after January 1514 (see above), has suggested that the dedication to Giuliano – whether owing to Vettori's lack of enthusiasm, or Giuliano's anticipated indifference – never took place. Such a view has been reinforced by the fact that no copy of *The Prince* carries a dedication to Giuliano: the vast majority of manuscripts open with the dedication to Giuliano's nephew, Lorenzo de' Medici; there is also a little manuscript authority for a version of the text without the dedication or with the dedication but without the address to Lorenzo.<sup>16</sup> The question of an actual dedication and presentation to Giuliano has recently arisen again as the result of a suggestion that Machiavelli in fact composed a dedication to Giuliano, not cast in the usual form of a prefatory prose letter but as a metaphorical poem<sup>17</sup>:

Io vi mando, Giuliano, alquanti tordi,  
non perché questo don sia buono o bello,  
ma perché un po' del pover Machiavello  
Vostra Magnificenza si ricordi.

E se d'intorno avete alcun che mordi,  
li possiate nei denti dar con ello,  
acciò che, mentre mangia questo uccello,  
di laniare altrui ei si discordi.

Ma voi direte – Forse ei non faranno  
l'effetto che tu di', ch'ei non son buoni

*storico letterato*, ed. by J.-J. Marchand, Roma 1996, p. 59-84, advocates an even later chronology, minimizing the fact that the presumed call in this chapter for a French-Florentine-Papal alliance against the Swiss and Spanish was more germane to the diplomatic situation in 1513 and 1514, while the papal position was still undecided, than from the very end of 1514, when Machiavelli became aware that Leo X was opting for a Spanish-Imperial alliance against the French: see below.

<sup>14</sup> *Lettere*, p. 452-454.

<sup>15</sup> Najemy, *Between friends*, p. 279-280. See M. Marietti, *Machiavel. Le penseur de la nécessité*, Paris 2009, p. 193.

<sup>16</sup> The Charlecote manuscript (Charlecote Park Warwickshire L.2) has no dedication (*De principatibus*, p. 56); Perugia Biblioteca Comunale Augusta G. 14, Rimini Biblioteca Comunale 'A. Gambalunga' SC MS. 435 and Vatican City Biblioteca Apostolica Vaticana Urbinate lat. 975 have the dedication without the address to Lorenzo de' Medici (*De principatibus*, p. 41, 51, 54).

<sup>17</sup> H. Jaeckel, *I "tordi" e il "principe nuovo". Note sulle dediche del "Principe" di Machiavelli a Giuliano e a Lorenzo de' Medici*, in «Archivio storico italiano», 156 (1998), p. 73-92. Jaeckel's hypothesis is rejected by Inglese, *Per Machiavelli*, p. 230 as «inconsistente».



e non son grassi: ei non ne mangeranno.

Io vi risponderai a tai sermoni,  
ch'io son maghero anch'io, come lor sanno,  
e spiccon pur di me di buon bocconi.

Lasci l'opinioni

Vostra Magnificenzia, e palpi e tocchi,  
e giudichi a le mani e non agli occhi<sup>18</sup>.

This poem has sometimes been interpreted literally as a gift of thrushes, sent to Giuliano on Machiavelli's release from prison<sup>19</sup>: Machiavelli would have been taking the occasion to remind his once intimate friend of the miserable state to which he had been reduced, particularly by the enemies who had taken away his job and caused him to suffer imprisonment and torture. However, there are several problems with a literal reading: it is hard to see why Machiavelli would have sent Giuliano – obviously more than well provided with game birds – a clutch of his own self-confessed miserable specimens. Moreover, it has gone unnoticed that the early spring was well beyond the season for trapping thrushes: in his letter to Vettori of 10 December 1513, Machiavelli said that bird catching had already petered out<sup>20</sup>. Particularly telling is an allusion to *The Prince* itself: «E li uomini in universali iudicano più alli occhi che alle mani; perché tocca a vedere a ognuno, a sentire a pochi: ognuno vede quello che tu pari, pochi sentono quello che tu se'»<sup>21</sup>. In both cases Machiavelli was elaborating an apologue by Poggio Bracciolini, who tells of a peasant crying while throttling a thrush; one onlooking bird who shows sympathy for the peasant's emotions is reproved by another for judging by appearances rather by actions<sup>22</sup>. The common subject matter of thrushes linking the three texts offers suggestive confirmation that, in fact, Machiavelli's poem constituted a metaphorical dedication to Giuliano. Nevertheless, it remains unclear when the text and dedicatory poem would have been presented to Giuliano<sup>23</sup>.

The date of *The Prince's* rededication and presentation to Lorenzo di Piero di Lorenzo de' Medici is just as problematic. A number of manuscripts refer to Louis XII (died during the night of 31 December 1514–1 January 1515) as «el re di Francia presente» (16.9). These words might seem to suggest that the version of the text upon which these manuscripts were based was available and in circulation before the beginning of 1515<sup>24</sup>. It is clear, however, that such a primitive version was not the text of *The Prince* in its final form. For there are another group of manuscripts that correct this reference to Louis XII, omitting the word «presente». A few lines later, all manuscripts of the

<sup>18</sup> *Tutte le opere*, a cura di M. Martelli, Firenze 1971, p. 1004.

<sup>19</sup> E.g. R. Ridolfi, *Vita di Niccolò Machiavelli*, 7th ed., Firenze 1978, p. 507 n. 25.

<sup>20</sup> *Lettere*, p. 424.

<sup>21</sup> *Il Principe*, p. 119 (17.17).

<sup>22</sup> R. Fubini, *Postilla ai "Tordi"*, in «Archivio storico italiano», 156 (1998), p. 93–96 (p. 95–96).

<sup>23</sup> Jaekel, *I 'tordi'*, p. 82–83.

<sup>24</sup> *Il Principe*, p. 106 n.

text contain a reference to Ferdinand of Aragon (d. 23 January 1516) as «el re di Spagna presente» (16.10). The deletion of 'presente' from Louis but not Ferdinand implies that the text of *The Prince* was updated sometime in 1515, or more exactly, between the deaths of Louis XII and Ferdinand<sup>25</sup>.

There is further indication of when Machiavelli retouched the text of his completed work. Ch. 14 contains the following passage:

la prima cagione che ti fa perdere quello è negligere questa arte [delle arme], e la cagione che te lo fa acquistare è lo essere professore di questa arte. Francesco Sforza, per essere armato, di privato diventò duca di Milano; e' figliuoli, per fuggire e' disagi dell'arme, di duchi diventorno privati. Perché, in tra le altre cagioni che ti arreca di male, lo essere disarmato ti fa contennendo<sup>26</sup>.

Among Francesco Sforza's descendants who were dukes of Milan, only his son Ludovico il Moro and the latter's own son, Massimiliano, lost power after military defeats. Massimiliano suffered defeat by the French on 13-14 September 1515 at the battle of Marignano, and so the allusion to Massimiliano must have been added by Machiavelli thereafter<sup>27</sup>. Moreover, it has gone unnoticed that in the *Discourses* Machiavelli uses the identical word «figliuoli» in reference to Francesco Sforza's issue:

Tanto che un principe savio e buono, per mantenersi buono, per non dare cagione né ardire a' figliuoli di diventare tristi, mai non farà fortezza, acciò che quelli non in sulle fortezze, ma in sulla benivolenza degli uomini si fondino. E se il conte Francesco Sforza, diventato duca di Milano, fu riputato savio, e nondimeno fece in Milano una fortezza, dico che in questo ei non fu savio; e lo effetto ha dimostro come tale fortezza fu a danno e non a sicurtà de' suoi eredi<sup>28</sup>.

<sup>25</sup> *De principatibus*, p. 18, 91-92. It is improbable, given the diffuse manuscript evidence, that the elimination of 'presente' from the identification of Louis XII was the result of the intervention by a copyist rather than by Machiavelli himself, especially since he himself apparently updated the text of 3.43 to the same effect, interpolating the phrase «vivendo lui» to imply that Louis XII was dead; otherwise, there is no specific indication in the text of chapter 3 that Louis XII was dead while Machiavelli was writing. Without the phrase «vivendo lui», the text is coherent on the presumption that Louis XII was still alive: «E quali errori ancora, potevono non lo offendere, se non avessi fatto il sesto, di torre lo stato a' viniziani». There is no clear reason, with regard to content, why Machiavelli should have written the phrase «vivendo lui», except to update the text in the light of Louis XII's death. For the significance of this phrase, see Connell, *The Prince*, cit., p. 19, 33, 49 and below.

<sup>26</sup> *Il Principe*, p. 97-98 (ch. 14.2-4).

<sup>27</sup> First noted by F. Chabod in his edition of *Il principe*, Torino 1924, p. 73 and in 1925 (see F. Chabod, *Machiavelli and the Renaissance*, Cambridge Mass. 1958, p. 35) but retracted by him in 1927 (see Chabod, *Scritti*, p. 156). The interpretation of «figliuoli» as descendants, not sons, was rejected by Chabod, basing himself on the erroneous opinions of E. Rossi, *Per la storia delle opere del Machiavelli*, «La cultura», 6 (1926), p. 194, whose only evidence is a general passage from Muratori's *Annali d'Italia*, written more than two centuries after *The Prince* and without any specific relevance or reference to Machiavelli; for more references to «figlioli» meaning descendants, see S. Battaglia, *Grande dizionario della lingua italiana*, vol. V, Torino 1968, p. 967, where the passages cited include Dante *Purgatorio* 12, 71 and Guido da Pisa.

<sup>28</sup> N. Machiavelli, *Discorsi sopra la prima deca di Tito Livio*, a cura di F. Bausi, Roma 2001, p. 467 (II.xxiv.16-17).

In this latter case «figliuoli» can be interpreted only to mean “descendants” because he goes on to discuss the Sforza losses of Milan referring consistently to the Sforza in the plural («loro» and «Sforzeschi»), so indicating that he meant Ludovico il Moro and Massimiliano:

Perché, giudicando mediante quella vivere sicuri e potere offendere i cittadini e sudditi loro, non perdonarono a alcuna generazione di violenza, tale che, diventati sopra modo odiosi, perderono quello stato come prima il nimico gli assaltò, né quella fortezza gli difese, né fece loro nella guerra utile alcuno; e nella pace aveva fatto loro danno assai, perché se non avessero avuto quella, e se per poca prudenza avessero agramente maneggiati i loro cittadini, arebbono scoperto il pericolo più tosto e sarebbonsene ritirati, e arebbono poi potuto più animosamente resistere allo impeto francioso co' sudditi amici senza fortezza, che con quelli inimici con la fortezza (...) E per isperienza si è visto come questa fortezza di Milano né agli Sforzeschi né a' Franciosi, ne' tempi avversi dell'uno e dell'altro, non ha fatto a alcuno di loro utile alcuno (...) <sup>29</sup>.

In the sentence following the one in which he speaks of «figliuoli», moreover, he goes on to speak of Francesco Sforza's titular heirs («eredi»), using the term as a synonym for «figliuoli» (II.XXIV.17) and so proving absolutely that «figliuoli» meant descendants, not sons. In fact, the whole sentence about the Sforza in *Prince* 14 has the appearance of an interpolation. The paragraph (14.1-7) is otherwise an entirely abstract and theoretical discussion, without examples. Machiavelli moves from discussing two reasons, then interrupts the flow of the argument with the Sforza examples, only to return to discussing a further reason, three times using the same word («cagione»). Massimiliano's defeat at Marignano, paired with his father's similar fate, seems to have been an example of Machiavelli's theoretical point too good to omit.

So Machiavelli took up the completed text of *The Prince* in the four months between 13-14 September 1515 and 23 January 1516. Presumably at the same time he made another renowned – and problematic – interpolation. Ch. 1 divides the treatise's subject matter into two categories: hereditary and new principalities. But Ch. 2, entitled *De principatibus hereditariis*, opens with a reference to republics, before turning to the actual topic of the chapter:

Io lascerò indreto il ragionare delle repubbliche, perché altra volta ne ragionai a lungo. Volterommi solo al principato e andrò ritessendo gli orditi soprascritti, e disputerò come questi principati si possino governare e mantenere. Dico adunque che, nelli stati ereditari e assuefatti al sangue del loro principe, sono assai minore difficoltà a mantenergli che ne' nuovi <sup>30</sup>.

The opening sentence of this chapter has generated almost endless speculation, since the only extant and general work in which Machiavelli wrote at length <sup>31</sup> on republics was the *Discourses*, a text in which Machiavelli refers

<sup>29</sup> *Discorsi*, II.XXIV.18-21, p. 467-468.

<sup>30</sup> *Il Principe*, p. 7-8 (ch. 2.1-2).

<sup>31</sup> «A lungo» for Machiavelli could mean a full discussion within a broader context: in the

several times to *The Prince*. Chronological problems with regard to *The Prince* are lessened if it is assumed that this sentence was interpolated at the time that Machiavelli is now known to have inserted the above reference to the Sforza into the text. It is clear that Machiavelli was working on the *Discourses* (or a primitive version of the text) no earlier than 1515<sup>32</sup> and apparently no later than the same year<sup>33</sup>; this project was well known in

*Discourses* (II.xx.2) he describes his treatment of mercenaries and auxiliaries in *The Prince* as a discussion «a lungo». Mercenaries and auxiliaries were a preeminent but not the exclusive subject of *The Prince*, and the same could be said for republics in the *Discourses* or indeed in that work's first eighteen chapters (often regarded as a relict of an earlier treatment of republics: see F. Gilbert, *The composition and structure of Machiavelli's Discorsi*, in his *History. Choice and Commitment*, Cambridge Mass. 1977, p. 115 ff; Baron, *The Principe*, p. 405 ff). Alternatively, «a lungo» could mean a full treatment in a single chapter: see *Discourses* II.1.29, where he refers to his treatment of composite principalities, discussed «a lungo» only in *Prince* 3; or where he says in *Discourses* II.viii.22 that he will complete a discussion «a lungo» in the following chapter. «Largamente», a synonym for «a lungo», is used by Machiavelli to refer to discussions elsewhere in parts or chapters: *Discourses* III.xix.12 and III.xlii.8.

<sup>32</sup> It is improbable that Machiavelli could have been preparing a work of such weight and importance as the *Discourses* without a single mention or allusion in his extensive correspondence with Francesco Vettori between March 1513 and January 1515. «The political issues about which he and Vettori wrote to each other in 1513 and 1514 are almost exclusively those of foreign policy, diplomacy, and the international scene, not the problems of civil constitutions and social classes that fill the pages of the *Discourses*». (Najemy, *Between Friends*, p. 336). There is good evidence that Machiavelli wrote the first eighteen chapters of *Discourses* I – and indeed the entire work – no earlier than 1515. A famous series of literary discussions took place in the gardens of the Rucellai family in Florence; these occurred in two phases: from 1502 to 1506 Bernardo Rucellai acted as host (Gilbert, *History*, p. 229). After his death on 7 October 1514 (G. Pellegrini, *L'umanista Bernardo Rucellai e le sue opere storiche*, Livorno 1920, p. 22), the gatherings met through the hospitality of his grandson, Cosimo Rucellai (Gilbert, *History*, p. 128-29). It was the second phase in which Machiavelli participated. Filippo de' Nerli, a fellow interlocutor there and close friend of Machiavelli's, described how the *Discourses* grew out of these discussions: «che avendo convenuto assai tempo nell'orto de' Rucellai una certa scuola di giovani letterati e d'elevato ingegno, mentreché visse Cosimo Rucellai, che morì molto giovane ed era in grande aspettazione di letterato, infra' quali praticava continuamente Niccolò Machiavelli (e io ero di Niccolò, e di tutti loro amicissimo, e molto spesso con loro conversavo) s'esercitavano costoro assai, mediante le lettere, nelle lezioni dell'istorie e sopra di esse, ed a loro istanza compose il Machiavello quel suo libro de' discorsi sopra Tito Livio» (F. de' Nerli, *Commentarj dei fatti civili occorsi dentro la città di Firenze dall'anno 1215 al 1537*, vol. II, Trieste 1859, p. 12). So, on the evidence of Nerli, the *Discourses* developed from discussions in the Rucellai gardens – discussions which could in all probability not have begun before 1515, given the recent death of Bernardo Rucellai and the consequent change in the gardens' ownership. During the second half of 1514, moreover, Machiavelli was involved in an intense love affair, which he first wrote about to Vettori on 3 August 1514, when he explicitly stated that he had foreseen serious study in favour of amorous pursuits: «Ho lasciato dunque i pensieri delle cose grandi e gravi; non mi diletta più leggere le cose antiche, né ragionare delle moderne; tutte si sono converse in ragionamenti dolci; di che ringrazio Venere e tutta Cipri» (*Lettere*, p. 465-466). As Ridolfi confirms, «Né si trova di fatto che in questo tempo conducesse opera alcuna» (Ridolfi, *Vita*, p. 249). So the evidence points to 1515 as the *terminus ex quo* of the *Discourses*.

<sup>33</sup> If Inglese (*Per Machiavelli*, p. 244 n. 5) is correct – as I think he must be – that the passage in II.xix.2 (*Discorsi*, p. 431) needs be emended to «Quando sarebbe potuto persuadere a uno italiano, da tre anni indietro [text: da trenta anni indietro] [...] a Novara», then Machiavelli is revealed to have reached this point in the text no earlier than 25 March 1516 (when the year changed according to the Florentine calendar *ab incarnatione*) or June 1516, the third anniversary of the battle of Novara, no later than June 1517, and probably no later than 25 March 1517; it is widely agreed that the *Discourses* developed from a sequential commentary to Livy's first

Florence and encouraged by a number of prominent Florentines<sup>34</sup>. So the interpolation of this first sentence of *The Prince*'s second chapter would have been, at the end of 1515 or early in 1516, a topical and appropriate addition, explaining why Machiavelli was limiting himself to principates. Indeed, the text would flow more naturally if, after devoting the previous chapter to principates in general, he then went on to discuss hereditary principalities in detail, opening with a summary of the argument in the previous chapter, namely that hereditary principalities posed fewer problems:

Acquistonsi [principati nuovi] o con l'arme d'altri o con le proprie, o per fortuna o per virtù.

II. DE PRINCIPATIBUS HEREDITARIIS.

Dico adunque che, nelli stati ereditari e assuefatti al sangue del loro principe, sono assai minore difficoltà a mantenergli che ne' nuovi<sup>35</sup>.

In fact, Machiavelli later writes in *The Prince* as though the generic treatment of republics in the *Discourses* had not yet been written: «ancora che dell'uno [quando uno privato cittadino con el favore degli altri sua cittadini diventa principe della sua patria] si possa più diffusamente ragionare dove si trattassi delle repubbliche»<sup>36</sup>. Grammatically, this is a potential imperfect construction with the meaning of “eventually”<sup>37</sup>, suggesting that the main text of *The Prince* was written before the *Discourses* had been begun.

The principal revision to *The Prince*, presumably in readiness for its rededication to Lorenzo, was not the last chapter but arguably chapter 3. This chapter, with its comparison of contemporary France and republican Rome based on a detailed reading of Livy XXVI and XXXI-XXXIV<sup>38</sup>, is uncharacteristic of *The Prince*, whose sources were, in the main, not primarily classical and humanist: the sole ancient source relied on intensively and at length is Herodian's *History* as translated by Poliziano in Chapter 19; otherwise, there are a couple of direct quotations from Vergil and Livy, and intermittent recourse to other ancient authors and to a humanist such as Biondo<sup>39</sup>. The

decade (see e.g. Gilbert *History* [first published in 1953]; H. Baron, *In search of Florentine civic humanism: essays on the transition from medieval to modern thought*, Princeton N.J. 1956; Inglese, *Per Machiavelli*), and II.xix corresponds to VII.38 in Livy (Gilbert, *History*, p. 120; Inglese, *Per Machiavelli*, p. 201). Having reached such an advanced stage in the project by 1516, it would be hard to believe that he had not begun the preliminary commentary upon which the *Discourses* are based sometime in 1515.

<sup>34</sup> See the remarks by Nerli cited above.

<sup>35</sup> *Il principe*, p. 7-8 (ch. 1.4; 2.3). See Baron, *In search of Florentine civic humanism*, p. 409-411.

<sup>36</sup> *Il principe*, p. 54 (ch. 8.1).

<sup>37</sup> *Ibidem*, p. 54, [1] n. 2.

<sup>38</sup> See Inglese, *Per Machiavelli*, p. 77.

<sup>39</sup> N. Machiavelli, *Il principe*, ed. by L. A. Burd, Oxford 1891, provided an intensive and lengthy analysis of Machiavelli's sources, but he tended to exaggerate Machiavelli's reliance on the classics in *The Prince* and many of his references are vague and unconvincing; for an up-to-date and more measured analysis, see the commentary in *Il principe*, cit., as well as Inglese, *Per Machiavelli*, p. 77 ff, where, in my view, however, he does not recognize the differing approach and attitude to the ancients in *The Prince* and the *Discourses*.

most significant role of the ancients and the humanists in *The Prince* was to reject their heritage: Machiavelli would challenge the idealism of a Plato in Chapter 15<sup>40</sup> and overturned Cicero's moral philosophy as transmitted via *De officiis* and via humanists such as Platina or Pontano in their treatment of the virtues<sup>41</sup>. It is striking that in *The Prince* the only extended example of lessons taken from paradigmatic Roman procedures and cited in order to correct deficiencies in present-day practices occurs in Chapter 3, where Machiavelli contrasts the expansionist policies of Louis XII unfavourably with those practised by the republican Romans. This treatment is so much more characteristic of the *Discourses*, that it is possibly arguable that this chapter was rewritten later, when the *Discourses* were well under way<sup>42</sup>; other arguments

<sup>40</sup> «La immaginata bontà de' non mai veduti in terra cittadini, i quali da Platone et più altri nobilissimi ingegni considerati et finiti di virtù et sapientia perfecti, più tosto sono per specie et figura dipinti che mai in carne veduti» had been referred to by Matteo Palmieri in the preface to *Della vita civile*, a work that Machiavelli used in the *Discourses*: cited by *Il principe*, p. 102.

<sup>41</sup> Q. Skinner, *Machiavelli. A Very Short Introduction*, Oxford 2000, p. 41 ff. In *The Prince* Machiavelli gives the impression of an erstwhile student of the classics and of humanism who is seeking to move beyond their heritage. The dedication of *The Prince* to Lorenzo de' Medici contains the phrase «non ho trovato, in tra la mia supellettile, cosa quale io abbia più cara o tanto esistimi quanto la cognizione delle azioni delli uomini grandi, imparata da me con una lunga esperienza delle cose moderne e una continua lezione delle antiche» ([Dedica] 3; *Il principe*, p. 4). This implies that *The Prince* is rooted in humanist study, but, on face value, there is no reason to doubt that this dedicatory letter was written for the presentation to Lorenzo in late 1515 or early 1516 and so reflected the humanist direction that Machiavelli had taken as a result of his contacts with the Rucellai gardens circle, rather than his approach when actually composing *The Prince*. The passage in the letter of 10 December 1513 «io ho notato quello di che per la loro conversazione ho fatto capitale» (*Lettere*, p. 426), i.e. «I have taken notes on those passages in ancient authors which I have been able to turn to advantage», describes accurately Machiavelli's cherry-picking the classics for juicy examples, typical of his methods in *The Prince*, rather than the intensive study of Livy and Polybius, characteristic of his approach in the *Discourses*. His stress on reading the classics in this letter is part of his ironic riposte to Vettori's letter of 23 November where the latter had emphasized his nocturnal immersion in the ancients (*Lettere*, p. 421). In his letter of 10 December, Machiavelli's claim to be able to serve the Medici was based on practical experience alone: «quindici anni che io sono stato a studio all'arte dello stato» (*Lettere*, p. 428).

<sup>42</sup> Thus 3.24-30 – the long digression on the Romans – forms a discrete section which could without difficulty have been interpolated into a text that would read smoothly from 3.23 to 3.31; unlike the theme of Louis XII's failures, which envelops the entire chapter, Machiavelli neither introduces the Roman comparison at the beginning nor alludes to it again after returning to discuss France in 3.31. For different and more complex hypotheses regarding the revisions to this chapter, involving several conjectural emendations to the text, see M. Martelli, *La struttura deformata: sulla diacronia del cap. III del Principe*, in «Studi di filologia italiana», 39 (1981), p. 77-120. Martelli suggestively indicates that the final version of the chapter retains traces of early revisions, particularly in the shifting focus from new to mixed principalities, but his reconstruction of a primitive version of the chapter is not persuasive, involving as it does, for example, the retention of the phrase «cose dette» in 3.31 (p. 105); in the actual text of *The Prince* these «cose dette» refer to the rules for holding «principati misti» spelled out in 3.12, 3.14 and 3.21, preceded by the phrase «come è detto» (3.21) – a verbal echo that Martelli's primitive version eliminates. Moreover, without the preceding general rules as articulated in 3.21, their introduction for the first time in 3.24 seems abrupt; «queste parte» (3.24) reads more naturally as recalling the general rules previously enunciated in 3.21 rather than as introducing them for the first time in 3.24. Entirely unsatisfactory is the abrupt shift in Martelli's reconstructed first paragraph (p. 104-5) from a negative first section, where the problems of holding a new principate are made to

in favour of its revision after the death of Louis XII are its vehement critique of his reign and the insertion of the phrase «vivendo lui»<sup>43</sup>, as well as the chapter's overall obituarial character, offering what seems to constitute a final, negative verdict on Louis's interventions in Italy. A revised chapter 3 condemning Louis XII's Italian policies would tend to magnify the achievement of Francis I after Marignano – an interpretation that could have been only gratifying to Lorenzo de' Medici, who had favoured the French rapprochement<sup>44</sup>, in contrast to Leo X, who had clung to the anti-French alliance and signed a secret treaty with the king of Spain and the emperor; this turn of events could hardly have been anything but satisfying to Machiavelli, who had recommended France to Leo X at the end of 1514<sup>45</sup>, and it is hard to resist impression that, with his subtle revisions to the text of *The Prince*, he was gloating between the lines.

The presentation to Lorenzo must have taken place before he became duke of Urbino on 18 August 1516, because he is addressed without a title and only as «Magnifico Laurentio Medici Iuniori»<sup>46</sup>. Presumably Machiavelli's revisions to the text were made in readiness for the dedication to Lorenzo. After the disappointing and discouraging reception of the text by Francesco Vettori and the rebuff by Giuliano, Cardinal Giulio de' Medici and the pope early in 1515<sup>47</sup>, it is credible that Machiavelli put *The Prince* to one side. Given

seem insuperable, to a second section, where the difficulties are represented as minimal; Martelli fails to notice that, in his reconstructed version, the sentence «E sempre interverrà che via sarà messo (...)» must now refer to the new prince, not to a rival foreign power as it does in *The Prince*'s actual text (cf. p. 104-105 with 3.21), since he has eliminated the explicit subject «uno forestiere potente»: Martelli's grafting of 3.21-23 onto 3.1-4 results in a text even less coherent than the actual text of *The Prince*, whose inconsistencies led him, so he asserted, to posit a primitive version subsequently vitiated by the introduction of new material and arguments. Indeed, the reconstructed version's final sentence «E chi non governerà bene questa parte (...)» (p. 105, 3.23) becomes a *non sequitur*, since it now abruptly reverses the hitherto positive argument. Finally, Martelli's historical hypothesis (p. 111 ff: namely that the change from new to mixed principalities was triggered in reaction to the initiative to provide Giuliano de' Medici with a mixed principality in North Italy, as signalled in Machiavelli's letter of 31 January 1515 [*Lettere*, p. 490-491]), is unconvincing, given that there had been discussions about implicitly mixed principalities for the Medici princes since at least July 1513 (see Vettori's letter to Machiavelli, 12 July 1513, in *Lettere*, p. 392-393) and Machiavelli had been preoccupied by this problem since at least June 1513 (see his letter to Vettori, 20 June 1513, in *Lettere*, p. 386); indeed, as early as the winter of 1513-1514, Lorenzo de' Medici was trying to have Piombino annexed to Florence (see R. Devonshire Jones, *Lorenzo de' Medici, Duca d'Urbino, 'Signore' of Florence*, in *Studies on Machiavelli*, ed. by M. Gilmore, Firenze 1972, p. 313), and in March 1514 Alfonsina Orsini, Lorenzo's mother, complained that Cesare Borgia, who had ruled over a mixed state composed of numerous individual elements in the Romagna, had not received from Alexander VI half of what Leo X was proposing to give to Giuliano de' Medici (Marietti, *Machiavel*, p. 389 n. 68).

<sup>43</sup> *The Prince*, p. 19, 33, 49.

<sup>44</sup> Marietti, *Machiavel*, p. 201-202.

<sup>45</sup> Letter to Vettori of 10 December 1514, *Lettere*, p. 469-78. See Najemy, *Between Friends*, p. 297 ff.

<sup>46</sup> Ridolfi, *Vita*, p. 525 n. 39.

<sup>47</sup> See the letter from Pietro Ardinghelli to Giuliano de' Medici, first published in part by C. Guasti, *I manoscritti Torrigiani donati al R. Archivio Centrale di Stato di Firenze*, in «Archivio storico italiano», ser. 3, 19 (1874), p. 231 and then in full by O. Tommasini, *La vita e gli scritti*

the overwhelmingly military emphasis of the treatise, it is tempting to think that Machiavelli was inspired to look to Lorenzo as a suitable alternative dedicatee after the latter was appointed Captain General of the Florentine *militia* on 6 June 1515<sup>48</sup>. It has been seen that the Florentine *militia*, once supervised by Machiavelli and then disbanded by the Medici, had been revived by them on 19 May 1514. After the appointment of a new captain and chancellor in mid-September 1514, progress in reconstituting the force had been slow, but in the early months momentum gathered so that, when Lorenzo de' Medici officially assumed command on 12 August 1515, forty-one companies had been organized; the last of these had been created at the beginning of July, preliminary to Lorenzo's ceremonial inauguration as Captain General of the Florentine *militia* the following month. Machiavelli's formulation of the original legislation constituting the republican *militia* had been copied in the new legislation of 1514, and so it is not surprising that he was approached to advise on the organization of the revived force. First there were verbal discussions, and then he submitted a short memorandum, which he later entitled *Ghiribizzi d'ordinanza*. This text was written shortly before the early months of July, because Machiavelli states there that the militia force had already reached thirty-seven of its ultimate forty-one companies<sup>49</sup>. The problem with this document is its addressee. It has been widely believed this was Machiavelli's friend Paolo Vettori, who had shown an interest in the militia since the return of the Medici, having advised against its disbandment in 1512; this attribution has been justified partly on the basis of the title of address used and partly because of Machiavelli's occasionally frank language in finding fault with the militia's reorganization<sup>50</sup>. It has been shown, however, that this form of address was not uniquely appropriate to a high-ranking commander in his own right such as Vettori (as head of the papal galley fleet) but could have been used to address the commander himself, Lorenzo de' Medici<sup>51</sup>. The point about Machiavelli's occasionally frank tone is hardly persuasive, given that Machiavelli was prone to give his opinions bluntly to members of the Medici family even loftier than Lorenzo (for example in the two memoranda of late 1512 addressed to the then Cardinal Giovanni<sup>52</sup>). In fact, Lorenzo must have been the text's addressee: it has been overlooked that

di Niccolò Machiavelli nella loro relazione col machiavellismo. *Storia ed esame critico*, Torino 1883-1911, t. II, p. 1064-1065.

<sup>48</sup> H. Butters, *Governors and Government in Early Sixteenth-Century Florence*, Oxford 1985, p. 265.

<sup>49</sup> See J.-J. Marchand, in *L'arte della Guerra. Scritti politici minori*, ed. by J.-J. Marchand, D. Fachard and G. Masi, Roma 2001, p. 585-587.

<sup>50</sup> Ridolfi, *Vita*, p. 522-523; Marchand, *L'arte della Guerra*, p. 587; Najemy, *Between Friends*, p. 312; Bausi, *Machiavelli*, p. 312.

<sup>51</sup> *De principatibus*, p. 9-10, n. 16.

<sup>52</sup> *Opere*, ed. by A. Panella, Milano and Roma 1938-1939, p. 778 (see J.-J. Marchand, *Niccolò Machiavelli. I primi scritti politici [1499-1512]*, Padova 1976, p. 303-304); Marchand, *I primi scritti politici*, p. 298-301; Marchand, *L'arte della Guerra*, p. 579-581. For Cardinal Giovanni as the addressee of the «Ai Palleschi», see Marchand, *L'arte della Guerra*, p. 579.



in the document Machiavelli writes, «Io lascerò indreto el disputare se questo ordine è utile o no, e se fa per lo stato vostro come per un altro»<sup>53</sup>. The term «stato», meaning regime in contemporary usage<sup>54</sup>, could refer only to an entity over which someone has personal power; «stato» could never be a synonym for “state” in the modern sense sometimes meaning country. Paolo Vettori did not have a «stato», but Lorenzo de’ Medici did. So Machiavelli had extensive contact with Lorenzo de’ Medici about the militia in the summer of 1515<sup>55</sup>. Of course, it was entirely logical for Lorenzo at this moment to have been in touch with Machiavelli, who had organized the earlier republican *militia*. What is particularly significant is that such contact may have inspired Machiavelli to rededicate *The Prince* to Lorenzo<sup>56</sup>.

So, according to this scenario, Machiavelli would have begun to consider a dedication to Lorenzo in the summer or autumn of 1515, and put the final touches to the text in the late autumn or early winter of 1515/1516. The work could have been presented to Lorenzo at any time after the battle of Marignano, but Machiavelli probably would not have waited too long after January 1516, because, unlike Louis XII, there was no attempt to update the text in the light of Ferdinand’s death.

<sup>53</sup> *L'arte della Guerra*, p. 588.

<sup>54</sup> See N. Rubinstein, *Notes on the word stato in Florence before Machiavelli*, in *Florilegium Historiale. Essays presented to Wallace K. Ferguson*, ed. by J. Rowe and W. Stockdale, Toronto 1971, p. 313-326, now reprinted in his *Studies in Italian History in the Middle Ages and the Renaissance*, I, *Political Thought and the Language of Politics. Art and Politics*, ed. by G. Ciappelli, Rome 2004, p. 151-163.

<sup>55</sup> *De principatibus*, p. 9-10; Inglese, *Per Machiavelli*, p. 216.

<sup>56</sup> The similarities between Machiavelli’s letter of 31 January 1515, in which Giuliano de’ Medici is still seen as the potential new prince, and *The Prince* itself, suggest Machiavelli had then still not hit upon the idea of rededicating the work to Lorenzo de’ Medici: see Marietti, *Machiavel*, p. 200.



# **Cities, networks and territories.**

## **North-central Italy and the Low Countries reconsidered**

by Wim Blockmans

European history has most often been written from the viewpoint of growth. The growth of the monastic orders, the communes, the bourgeoisie, the state, capitalism and so on. Grand theories such as the always fascinating insights formulated by Max Weber, describe long-term processes such as secularization, bureaucratization and state formation. Such approaches are surely helpful to discern major tendencies, but reality is always far more complex and diverse than a handful ideal types. In the following pages, I intend to develop an argument in favour of historical explanations as necessarily dealing with complex systems, including a multitude of variables and interactions, all changing over time. Growth, as well as its corollary decline, need to be qualified with regard to the level of analysis. Decline in one region may very well contribute to the growth of another one, whereby the overall system may just be adapted to external changes. Therefore, concepts describing a particular configuration, such as an urban hierarchy, a city-state, a regional state, or a multiple monarchy can just be seen as stepping stones in the complex patterns of change historians are studying. An overly strong accent on one or the other particular model or region, seen as general or dominant, distorts the constantly changing relations of highly variegated interactions. The difficulty will then reside in avoiding the Scylla of purely descriptive juxtapositions of unique cases, as well as the Charybdis of teleological over-simplification.

In recent years, major efforts have been made in bridging the historiographical gap between local and regional studies, on the one hand, and the tradition describing the steady growth of larger political systems integrating many, but surely not all, the pre-existing structures into dynastic states. The interpretation of an overall tendency in Europe towards the formation of strong dynastic states no longer prevails as a primarily top-down process initiated by princes, their courtiers and bureaucrats<sup>1</sup>. Attempts have been made

<sup>1</sup> Ch. Tilly, ed., *The Formation of National States in Western Europe*, Princeton 1975; R. Bonney, *The European Dynastic States 1494-1660*, Oxford 1991.

to compare ancient City-States with medieval and early-modern ones<sup>2</sup>. The continuity of local and regional powers within overarching state structures has been stressed, which could lead to long-term stabilisation on smaller levels than that of the large dynastic states<sup>3</sup>. The relative autonomy of economic systems vis-à-vis state power has been understood as a necessary corollary to the study of political systems<sup>4</sup>. This led to the insight that the variety of state structures depended highly on the complex interaction between existing and newly emerging power systems of various kinds<sup>5</sup>. The relative strength of the contenders rested highly on their economic basis and on the level of community building in previous stages<sup>6</sup>.

All this showed the need to think in terms of multiple dimensions – political, economic, cultural – and multiple levels. As the three dimensions were organised and functioned along different logics, their interactions operated at various levels since economic and cultural phenomena did not coincide with political borderlines. All these elements underwent changes due to internal as well as external processes, which made the complexity of the interactions hard to oversee. Therefore, most analyses remain limited to particular regions, aspects and periods. A more encompassing insight might require computer simulations such as these used for weather forecasts.

Giorgio Chittolini has greatly contributed to our better understanding of the way in which the large communes in North and Central Italy underwent towards city-states and then to regional states. He clarified the variation between the regions and explained how their interaction triggered warfare and rivalry which profoundly changed the structure of the social and political system during the fourteenth and fifteenth centuries. It were, however, the urban elites who extended their control over the countryside and strengthened it in order to secure their own economic interests. The regional states which were consolidated in the middle of the fifteenth century, maintained most of their features even under the Habsburg domination. They differed profoundly from any other political system in Europe as their basis was urban and not feudal, and the capital city's domination was not counterbalanced by political participation and representation of the smaller towns<sup>7</sup>.

<sup>2</sup> A. Molho, K. Raaflaub, and J. Emlen, eds., *City States in Classical Antiquity and medieval Italy*, Stuttgart 1991; M.H. Hansen, *Polis and City-State. An Ancient Concept and its Modern Equivalents*, Copenhagen 1998.

<sup>3</sup> Ch. Tilly and W.P. Blockmans, eds., *Cities and the Rise of States in Europe, A.D. 1000 to 1800*, Boulder 1994; W. Blockmans, A. Holenstein, and J. Mathieu, eds., *Empowering Interactions: Political Cultures and the Emergence of the State in Europe, 1300-1900*, Cornwall 2009.

<sup>4</sup> R. Bonney, ed., *Economic Systems and State Finance*, Oxford 1995.

<sup>5</sup> M.A. Ladero Quesada et al., *Poderes Publicos en la Europa Medieval. Principados, Reinos y Coronas*, Pamplona 1997; Ph. Contamine, ed., *War and the Competition Between States*, Oxford 1998.

<sup>6</sup> P. Blickle, ed., *Resistance, Representation and Community*, Oxford 1997.

<sup>7</sup> G. Chittolini, *The Italian City-State and its territory*, in Molho, Raaflaub and Emlen, *City States*, p. 589-601; *Cities, "City-States", and Regional States in North-Central Italy*, in Tilly and Blockmans, *Cities and the Rise of States*, p. 28-43; *I principati italiani alla fine del Medioevo*, in Ladero Quesada, *Poderes Publicos*, p. 235-259.

Several authors have compared the cities' dominant position in North-Central Italy with that in Flanders, where the three major cities also tended to control their hinterland, most clearly during the periods of revolt during the fourteenth and fifteenth centuries<sup>8</sup>. Most recently, Giorgio Chittolini compared the county of Flanders with the duchy of Milan and observed correctly that the urbanisation percentages depend highly on the threshold applied to count an agglomeration as a city. In the whole of the Low Countries around the middle of the fifteenth century, 241 localities have been considered as towns, as they had been granted urban privileges. However, 102 of these had less than thousand inhabitants, and only 37 more than 5000. The latter counted together 495,000 inhabitants or 60 per cent of the population of all the privileged towns<sup>9</sup>. If only centres with more than 5000 inhabitants are counted, Lombardy reached the level of 25% urban population, and Flanders around 15%. Moreover, one should rather consider the realities of the social and economic geography than the political borderlines. So, Bergamo and Brescia belong to the Milanese network more than to the Venetian *Terraferma* in which they were incorporated, and Genoa was its great gateway<sup>10</sup>. Similar observations have to be made about the county of Flanders which, as an economic region, included Lille, Tournai, Valenciennes, and Mechelen, all cities of more than 10,000 inhabitants. It is therefore more adequate to consider larger economic systems as a whole. Even then, there can be no doubt about the lower level of urbanisation in the Low Countries, as compared to North-Central Italy, and the smaller size of their metropolises. In 1300, three Italian cities had a population of 100,000, and 21 others 20,000 or more. In the Low Countries, only Ghent had then over 65,000 inhabitants, and ten others reached 20,000. At the end of the fifteenth century, North-Central Italy had around 5.3 million inhabitants on a total surface of over 100,000 square kilometres, the Low Countries 2.5 millions on c. 80,000 square kilometres, which implies approximate average densities of 48 and 31 respectively<sup>11</sup>.

<sup>8</sup> Most recently E. Crouzet-Pavan and E. Lecuppre-Desjardin, eds., *Villes de Flandre et d'Italie (XIII<sup>e</sup>-XVI<sup>e</sup> siècle). Les enseignements d'une comparaison*, Turnhout 2008, with especially the contributions about power relations: M. Boone, *Les pouvoirs et leurs représentations dans les villes des anciens Pays-Bas (XIV<sup>e</sup>-XV<sup>e</sup> siècle)*, p. 175-206 ; J.-C. Maire Vigueur, *Les inscriptions du pouvoir dans la ville. Le cas de l'Italie communale (XII<sup>e</sup>-XV<sup>e</sup> siècle)*, p. 207-233; G. Cherubini, *Rapport de synthèse: Les pouvoirs dans la ville en Flandre et en Italie*, p. 235-243.

<sup>9</sup> P. Stabel, *Composition et reconstitution des réseaux urbains des Pays-Bas au Moyen Âge*, in Crouzet-Pavan and Lecuppre-Desjardin, *Villes de Flandre et d'Italie*, p. 41, 58.

<sup>10</sup> G. Chittolini, *Paysages urbains du comté de Flandre et du duché de Milan (XV<sup>e</sup> siècle)*, in W. Paravicini, ed., *La Cour de Bourgogne et l'Europe*, Paris 2010 (in print).

<sup>11</sup> G. Pinto, *Poids démographique et réseaux urbains en Italie entre le XIII<sup>e</sup> et le XV<sup>e</sup> siècle*, in Crouzet-Pavan and Lecuppre-Desjardin, *Villes de Flandre et d'Italie*, p. 13-27 ; P. Stabel, *Composition et reconstitution des réseaux urbains*, *ibidem*, p. 29-63; W. Blockmans, *Les pouvoirs publics dans des régions de haute urbanisation, « Flandre » et « Italie » aux XIV<sup>e</sup>-XVI<sup>e</sup> siècles*, *ibidem*, p. 65-74.

As it comes to the position of the metropolises *vis-à-vis* the smaller cities, what matters is the rank size distribution. How much larger – and probably also more powerful – was the dominant city than the next in size in its hinterland? After the huge population losses in Tuscany during the second half of the fourteenth century, Florence had a population of 40,000, Pisa went down to 10,000. The proportion of 4:1 allowed Florence to subdue its seaport. Similar proportions can be noted between Venice and Milan, on the one hand, and their dependent cities, on the other. In Flanders, these proportions were even more outspoken. Bruges may have had in the third quarter of the fifteenth century 37,000 to 42,000 inhabitants, its main rival and seaport Sluis (L'Ecluse) did not exceed 9,000. The next in the hierarchy under Bruges was Dunkerque with little more than 6,000. In the quarter of Ghent, the distribution was even more unequal: the largest secondary town Kortrijk (Courtrai) had a population of 8,500, nearly one-sixth of that of the capital city; the next was Oudenaarde with 6,500. And even the third dominant city, Ypres, which held its position until the end of the eighteenth century notwithstanding its huge population losses from an estimated 27,000 around 1300 to 9,000 in 1450, could maintain its supremacy over towns such as Diksmuide, Veurne (Furnes) and Belle (Bailleul) which hardly had more than 2,000 inhabitants. Obviously, the division of the entire territory of the county between the three largest cities in the 1340s had brought about institutional arrangements aiming at the consolidation of the domination by Ghent, Bruges and Ypres as the “Three Members of Flanders”. Even the gradual suppression of many of these capitals’ privileges by the growing monarchical powers did not entirely suppress their pre-eminence, for example in the distribution of the fiscal burden. In Brabant and Holland, which territories equally had a fairly high urbanisation rate, the main cities developed more slowly and they remained smaller until 1500. Therefore, they could not attain any overweight towards the aristocracy and the prince comparable with that of Ghent, Bruges, and even Ypres<sup>12</sup>.

For a full understanding of the power relations among cities and their hinterlands, however, our scope cannot remain limited to internal rank size distributions. Three further factors need to be considered as well: the institutional configuration during the period of initial urban growth from the tenth to the thirteenth centuries, the impact of monarchical powers, and the region’s position in the world-economy. Taking for granted that North-Central Italy was the most densely urbanized region in medieval Europe, I will now examine the period in which the Low Countries underwent the relatively rapid urbanisation, and which distinguished it over several centuries from the developments in most other parts of Europe. As Jan de Vries has convincingly demonstrated, North Italy and the Southern Low Countries

<sup>12</sup> W. Blockmans, *The impact of cities on state formation: three contrasting territories in the Low Countries, 1300-1500*, in Blicke, *Resistance*, p. 256-271; Boone, *Les pouvoirs et leurs représentations*.

stand out as the regions with the highest “urban potential” around 1500<sup>13</sup>. It seems worthwhile to compare these regions systematically from various viewpoints, starting with the geographical condition.

Looking at the urbanisation in the Low Countries in context of the courses of the main rivers, the assumption is that the lower reaches of the Rhine, Meuse and Scheldt rivers and their estuaries would be advantageous for human mobility and the mass transport of goods across various distances. This is the main reason that these areas were able to support greater urban populations than other areas. The population density per square kilometre was higher, and the region as a whole flourished for centuries. The transport hubs that became the foundation of the urban network have kept their importance to this day: the connections across land and water from Cologne to the North Sea; the routes to, on and along the Scheldt and Meuse rivers; the sea ports; the connection to England from Calais.

Lying on the coast, the Low Countries could enjoy many advantages compared to the landlocked hinterland: the sea provided plenty of opportunities for fishing, trade and transport. As a result, the coastal provinces were also more open to external contacts and influences. They thus became more commercially oriented and were able to support urbanisation on a larger scale. Other geographical factors such as the various soil types also played a role. Even before the Roman occupation, and certainly during it, the fertile loam areas of the south were more heavily populated than the sandy or marsh areas of the north. Later, in the middle ages the higher productivity of the land could support higher population growth rates in these areas. The less attractive areas included the peat soils of the river and coastal areas in the north, as working the land continually brought new problems. The rolling countryside and hard bedrock in the south and east prevented large scale agricultural development and limited transport possibilities. However, these areas were rich in natural resources such as rock, ore, wood and coal which were much in demand in the lower lying areas. The diversity of the region offered great opportunities for development, and this diversity became the major factor that stimulated the mobility of people and goods.

Thus, while the geographic features offered opportunities, the degree to which these were exploited strongly depended on the human factors of the wider environment. What stands out is that from the eleventh century onwards, the river deltas have relatively high concentrations of human and material capital. This concentration has continued up to this very day. Furthermore, over the course of the last millennium, always one or the other area was at the forefront of their times.

During the seventh to the tenth centuries, the development of the upper Meuse river was strongly favoured by the natural environment and its human context. The centre of the Frankish Empire’s possessions lay in the region

<sup>13</sup> J. de Vries, *European Urbanization, 1500-1800*, Cambridge Mass. 1985, p. 158-161.

around Aachen and Liege, from where they could continue the building of settlements started in pre-historic and Roman times. The South Limburg loess soils are especially fertile, and the ore mined in this region supplied the iron industry, which in turn was very useful for producing knights' armour. In later periods, these advantages lost their importance as the balance of power was superseded by ever more important macro-economic forces. The cities along the upper Meuse River may have risen early, but from the eleventh century onwards they started to lose their might.

The internal dynamic within the Low Countries whereby the core activities continually moved from one area to another – though remaining in each other's immediate vicinity – is the most striking feature of the region's development over the long term. The geographic opportunities had different impacts, depending on the changing developments in the wider European context. One constant was clear throughout: that the Low Countries at any time was a border area, or better, a convergence point where different trends and developments came together. Its geographic location meant that the region was destined to link the early growth centres of the Rhine to the North Sea. The natural environment of the river estuaries was not particularly conducive for agriculture, and this stimulated the population to turn to the sea for their livelihoods. The key to success thus lay in the impulses and potentials from the upper reaches of the river and from the sea. The region was destined to be a transit hub and meeting place, and local developments and their effects depended on creativity and the creation of external relationships.

If we look back at the long term development, as demonstrated by Fernand Braudel, as it took place in Europe from the eleventh to the seventeenth centuries, we can clearly see that the main growth of major economic systems occurred in two regions: Northern Italy and the Low Countries. The metropolitan cores of these two regions were continually moving, but by the end of the sixteenth century the domination of the Mediterranean had come to an end. To Braudel, the cores in the Low Countries were Bruges, Antwerp and Amsterdam. His model exposes both the hierarchy of regions as well as their internal dynamics within an intercontinental economic system. The driving force is the capitalist pursuit of profit held by actors who were constantly looking for the best combination of production factors. At the same time, the European economic system as a whole was showing both a steady intensification of its internal commercialisation, and a steady expansion of an intercontinental system towards a real worldwide economy<sup>14</sup>.

This interpretative model helps clarify the dynamics in the Low Countries. It shows the European and intercontinental contexts in which to situate change, thus providing the backdrop for events to be understood at a higher level than at the level of sheer local, specific and coincidental factors. Two events come immediately to mind: first, the continual enlargement of

<sup>14</sup> F. Braudel, *Le temps du monde*, Paris 1979, p. 74-223.



the European system within which the Low Countries held a prominent position, though still subordinate to that of North-Central Italy; second, the continually improving efficiency of the way in which the economy was organised.

The enlarging scale is well reflected by the size of the metropolitan population, that is, the city with the largest concentration of human and material capital within the system. This can be underpinned by statistics of the population of all the towns in the immediate hinterland, and by the total population of the region. However, objection can be raised against these last two indicators given the random character of the demarcation of the hinterland and region. To work out the boundaries, historians usually depend on administrative sources that were drawn up within a state context. The economic networks however do not always coincide with these historical demarcations, leading to distortion. The assumption must be made that a city needs a hinterland for the exploitation of natural resources and for food supply that is in proportion to its population. A large city thus needs provisions from a hinterland that is sufficiently productive to meet both its needs and possibly those of the other cities in the region. Only a highly productive and sufficiently large hinterland can support major cities, and this similarly requires a high degree of market oriented production and a certain level of population density. With every step in the development of the capitalist economic system in the Low Countries, the highest population of the current largest city is roughly double that of the previous largest city. This can be seen in the following simple list:

Arras	thirteenth century	25,000 residents
Bruges	fourteenth and fifteenth century	45,000
Antwerp	sixteenth century	100,000
Amsterdam	seventeenth century	200,000
[London	eighteenth century	400,000]

Looking at this table, these figures should logically show a proportional increase in the control that a city exerts over its hinterland. The term “control” is not meant only in terms of the size of a given area, but also in terms of the city’s role as the central place in a hierarchy of markets, whereby increasing technical efficiency also exerts a strong influence. Two more points can be made about the table above. One, Braudel did not consider the vanguard position of Arras, possibly because this metropolis lay outside his chronological boundaries. Until 1191, thus in the first stage of urban growth, Arras and its region fully belonged to the mighty county of Flanders. Without the preceding stage of Arras being at the core of an industrial, commercial and financial centre with satellite cities, the connections between North-Central Italy, Flanders and England from the twelfth century onwards cannot be explained. Two, the figure for Bruges is on the low side. This is explained by the fact that a larger city lay within its economic system: Ghent, at 45 kilometres away. Ghent (with a population of 65,000 around 1350) however did not have the highest concentration of commercial capital and trading organisations, and its complex connections to the sea prevented it from dominating all areas.

Up to the early fourteenth century, the major cities in Flanders and Artois did not show any tendency towards formalising their control over their hinterlands. In contrast to Italy, the structure of the dioceses did not offer each city in the Low Countries a pre-structured *contado* of on average one or two thousand square kilometres<sup>15</sup>. Only Tournai and Cambrai were surrounded by a small territory of a dozen villages, under the bishop's rule. Liège and Utrecht became the capital cities of large territorial principalities which did not comprise the whole extent of the diocese; the bishops ruled over their own territories as lay princes, but beyond their borders they had to restrict themselves to their role as purely spiritual leaders. A second circumstance did not favour the formation of city-states during the period of strong urban growth before the fourteenth century. Again in contrast to Italy, the county of Flanders was ruled by fairly strong counts who in the course of the twelfth and early thirteenth century organised their administration in fifteen castelnies, where they appointed bailiffs as their judicial officers<sup>16</sup>. So, the structure of the dioceses was too large, and that of the castelnies too small to support any hypothetical territorial ambitions citizens may have had. Instead, they organised the protection of the trade in cooperation with the territorial rulers through merchants guilds, hansa's and fairs. The need for the formation of city-states, dominated by the three major cities, was felt only in the 1340s, as a reaction against the count's policy which ruined their trade relations with England in the context of macro-economic changes which threatened the old textile centres<sup>17</sup>. These attempts remained successful only during the revolts, but these were systematically crushed by the military overweight of the count, in the fourteenth century supported by the King of France. In neighbouring Brabant, the administrative division of the duchy may have supported the pre-eminence of the four major cities, but these lacked the overweight vis-à-vis the secondary cities, while the duke and the aristocracy could mostly counterbalance them<sup>18</sup>.

Let us now look at the features of an economic system within which a metropolis was the core. These systems underwent continual geographic expansion which was connected with the increase of organisational efficiency. If the core position moved to another location the move did not mean a radical shift. On the contrary, each location's economic system continually adjusted to the changing circumstances. Every adjustment was directed at making the most profit by reducing costs and increasing scale. The transi-

<sup>15</sup> Chittolini, *The Italian City-State*, p. 591.

<sup>16</sup> H. Nowé, *Les baillis comtaux de Flandre, des origines à la fin du XIV<sup>e</sup> siècle*, Brussels 1929, p. 47-59.

<sup>17</sup> J.H. Munro, *Medieval woollens: the Western European woollen industries and their struggles for international markets, c. 1000-1500*, in D. Jenkins, ed., *The Cambridge History of Western Textiles*, Vol. I, Cambridge 2003, p. 228-243.

<sup>18</sup> W. Blockmans, *Alternatives to monarchical centralisation: the great tradition of revolt in Flanders and Brabant*, in H.G. Koenigsberger, ed., *Republiken und Republikanismus im Europa der frühen Neuzeit*, München 1988, p. 145-154.

tions were gradual because the moving of the centre of specialised activities to a location in a bordering area where there were fewer limitations and more possibilities for expansion happened over time. Technical knowledge was shared because there were already forms of competition, complementarity and cooperation between neighbouring areas. This is verified by the fact that not one single rising metropolis made innovative breakthroughs in each and every area compared to its predecessor. Most of the activities were extensions of previous activities, with some new ones arising and others declining. The “down-graded” metropolitan areas for a while still maintained some of the most specialised activities, for which a high level of technical qualifications and much capital were required. Arras, for example, continued to play an important role in the new textile industry, and, in particular, in carpet weaving. Bruges kept its staple of Castilian wool and continued to still be of importance as a financial and artistic centre, just as Antwerp was in the seventeenth century<sup>19</sup>.

The geographic reach of Arras’ economic system was defined by the fairs of Champagne, Flanders, Saint Denis and England. Italian trading companies were active in all these places and though important, were not the only trading partners. In Arras itself, family companies of traders, entrepreneurs and financiers formed the economic basis, while protection outside the city walls was guaranteed by merchants’ guilds and *hansa*’s.

In Bruges, the geographic horizon stretched quite a bit further afield: both the Rhine region, with its centre Cologne, and the German Hanseatic League had significant representation in the city, together with other nationalities and Italian and Iberian trading companies. Bruges’ most striking advantages compared to Arras were the privileged presence of many representatives of a wide range of foreign trading companies; its significantly better accessibility for sea going ships; and its excellent connections to the fairs of Brabant and their continental hinterland. The scale and the range of the supply of goods and services were significantly increased as a result of the regular maritime connections to Genoa, Venice, England and the Hanseatic areas<sup>20</sup>. Bruges’ services became more sophisticated with the increased professionalism of functions such as broker, money trader and banker, and this ultimately led to the creation of the world’s first stock exchange. Trade was protected by the city authorities, and where necessary by the other “Members of Flanders” and representatives of the count or duke.

The hinterland of Antwerp included the expanding colonial acquisitions of Castile and Portugal, the most important trading partners, still followed closely by Italy, the Hanseatic League and England. South Germany was more strongly represented in Antwerp than in Bruges. The orientation to Cologne and the fairs of Frankfurt opened important new markets in Central

<sup>19</sup> P. Spufford, *From Antwerp to London. The Decline of Financial Centres in Europe*, Wassenaar 2005, p. 34.

<sup>20</sup> P. Spufford, *Power and Profit. The Merchant in Medieval Europe*, London 2002, p. 172-173.

Europe. The combination of Amsterdam as the distribution centre of Baltic grain, the harbour of Arnemuiden on the island of Walcheren in Zeeland as the first port of call before reaching Antwerp, the good maritime conditions of the Western Scheldt, and the possibilities for ships to dock in the city itself meant great improvements of the harbour facilities for sea going vessels. In Antwerp, the stock market became more sophisticated and the massive state loans began to play a heavier role. As the central money market for the Habsburg Empire, Antwerp enjoyed the protection of the Emperor. Around 1480 and during the decades that followed, real wages were lower in Antwerp than in Bruges and Ghent while regulations for trade and craftsmanship were less stringent than in Flanders. These conditions attracted entrepreneurs who brought employment opportunities with them. This in turn encouraged massive immigration. Wages remained relatively low for decades, which stimulated further growth.

Parallel to the economic upscaling was the political unification of the Low Countries under one dynasty. While the institutional and social effects of this should certainly not be overestimated, the question can be posed about the economic and cultural effects. The introduction of a common currency in the Burgundian territories in 1433 and its long term stability certainly contributed to the reduction of transaction costs in all areas. Wages could be kept to the same level for decades and this gave rise to fewer social conflicts than during the fourteenth century. The second positive effect was the greater homogeneity of the region vis-à-vis foreign countries. From then on cases of conflict in one of the principalities ran the risk of reprisals by the many subjects of the Burgundian or Habsburg dynasties. Similarly, foreigners were faced with a far more powerful ruler. In short, the trading position of the Low Countries became stronger than that of others. The different principalities within the Low Countries worked to maintain their own strong economic positions: Flanders maintained the ban on the import of English cloth, and Holland entered a bitter competition with the German Hanseatic League, kept off all export taxes while these were imposed in the other principalities in 1543-1545. The expansion of the Habsburg Empire from 1517 onwards in Spain, 1519 in the Holy Roman Empire, and from 1525 in Italy eased the economic relationship between the wealthiest parts of Europe, whose centres lay in Genoa, Seville, Augsburg and Antwerp. Under the Empire's protection, important entrepreneurs, traders and financiers from each of these places could carry out their transcontinental operations.

However, the disadvantages of linking the Low Countries to the Habsburg Empire lay in the fact that the Emperor prioritised other interests than did his subjects. The strengthening of the state apparatus came at the cost of the autonomy of the cities. Dordrecht for example, was unable to maintain its traditional tax exempt status under Charles the Bold. After rebellions in Utrecht and Ghent, Charles V removed the guilds' right to political participation and independence. He even built a citadel in each of these cities – as a warning to the people. Limiting political participation was intended to

smooth the path to levying taxes. These were initially intended to finance the continuous wars, especially those with France. While the subjects longed for order, stability and peace to carry out trade, Charles V and Phillip II put their unassailable, autocratic power first. The Church vindicated this ambition, but it was not able to address the needs of the time. The merciless manner in which both sovereigns oppressed the Protestant movements which spread on a huge scale among the urban middle classes and the rural proletariat from 1540 onwards, gradually undermined the loyalty that subjects traditionally had for their monarchs. This affected not only the freedom of conscience of the citizens who were used to their own autonomy, but also affected the very foundations of civil order based on regular, albeit oftentimes tense, dialogue between the subjects and their monarchs which had grown during the course of the centuries.

Ultimately, it was the monarchy, by their very actions, which ensured that an abrupt end came to the prominent role of each of the metropolises that form the guiding principle of this book. Around 1300, King Phillip IV's military operations destroyed the ties between Artois and Flanders, and vitally damaged the fairs of Champagne that were essential for Arras and surrounding cities. The oppression of the rebellion against Maximilian strangled the Bruges economy in the 1480s, partly as a result of his order that all foreign traders must operate from Antwerp. The steep rising in the fiscal burden, leading to the first Habsburg state bankruptcy, destroyed the Antwerp money market in 1554-1556. The repression of the revolt of the Low Countries, culminating in the long-lasting siege and the eventual fall of Antwerp in 1585 dealt the final blow. The simultaneous upscaling of the economic systems, of the power of the state and of the new communication media, drove the tensions between politics, economics and culture to a head. In the spring of 1559, the Peace of Cateau-Cambrésis finally ended the wars that the Houses of Valois and Burgundy-Habsburg had fought with each other since 1465. A brief revival temporarily halted the downward cycle, but a deep rift with the developments of previous years became apparent. The submission of the rebellious cities in the south by Alexander Farnese, Duke of Parma and grandson of Charles V, closes this chapter with the Fall of Antwerp in 1585.

The dynamic of the relocations of the cores of economic activity and demographic concentration was clearly determined by the needs of the European world-economy which required optimal harbour facilities for ever larger sea-vessels. Venice, Genoa and Porto Pisano met these requirements over the centuries, while in the Low Countries relocations were needed repeatedly. On the other hand, the metropolises Arras, Bruges and Antwerp saw their decline speeded up by monarchic policies. In North-Central Italy the impact of the fourteenth-century mortality was far greater than in the Low Countries, and that contributed to the concentration of many smaller city-states into larger regional states. The metropolises remained fairly the same, as their overweight vis-à-vis secondary cities was maintained even after heavy population losses. A striking contrast with the seaward orienta-

tion of the successive metropolises in the Low Countries, is the dominance of land-locked cities such as Milan, Florence, Bologna and Siena. They had in common their key position on major overland trading routes, in a fertile plain at the feet of a chain of mountains. The density and the value of the trade were so much higher in Italy than in the rest of Europe, that they made the dominance of these capital cities still possible. Moreover, as Giorgio Chittolini has so well shown, the urban elites had consolidated their position by turning to landed property as well.

# ***Ius romanum in Helvetia:*** **a che punto siamo?**

di Pio Caroni

## **1. Dove eravamo**

Ci furono tempi, in cui gli storici svizzeri, massime quelli più attenti al ruolo svolto dal diritto nelle società del passato, ragionarono con grande determinazione e insolita unità di intenti sul destino della scienza giuridica in terra elvetica. Come se un meccanismo occulto li avesse tutti indotti a guardare nella stessa direzione, a imboccare e percorrere le stesse strade, a scrutare le stesse vicende, ovviamente in vista di conseguire un esito da tutti tacitamente auspicato. Fatto più unico che raro in un paese, ove sia il federalismo politico che la compresenza di lingue, tradizioni e culture diverse hanno spesso mitigato l'impatto di strategie nazionali, quindi anche frenato la realizzazione di progetti comuni.

Capitò mezzo secolo fa, in risposta a un appello internazionale, che faceva allora capo a Erich Genzmer, volto all'elaborazione di un'opera complessiva sulla presenza e la vitalità del diritto romano nel Medio Evo europeo<sup>1</sup>. Da mettere accanto a quella che, a partire dal 1830, ma con ben altri intenti<sup>2</sup>, F.C. von Savigny aveva dedicato allo stesso, ondivago tema. Aderirono notoriamente in molti, e un po' ovunque, a questo ammaliante richiamo, persino – appunto – in terra elvetica. Il che può anche stupire. Da quando infatti due icone della nostra storia giuridica, Eugen Huber e Ulrich Stutz, avevano ragionato e scritto di questo argomento<sup>3</sup>, nessuno aveva più osato riaprire il

<sup>1</sup> Rinviano agli albori di questa iniziativa gli interventi di E. Genzmer, F. Calasso e U. Nicolini pubblicati in «Archives d'Histoire du droit oriental - Revue internationale des droits de l'antiquité», 2 (1953), pp. 431-470. Critico fu dall'inizio l'atteggiamento di Calasso (*ibidem*, pp. 441-463, poi in *Storicità del diritto*, Milano 1966, pp. 230 sgg.), attendista quello di F. Wieacker (*Privatrechtsgeschichte der Neuzeit*, 2 ed. rivista, Göttingen 1967, pp. 19, 60).

<sup>2</sup> Vi accenno, poiché il tema è centrale, in P. Caroni, *Occhiuto, ma non troppo: Savigny in Italia*, in «Quaderni fiorentini per la storia del pensiero giuridico moderno», 30 (2001), pp. 723-733, specialmente 727 sgg.

<sup>3</sup> E. Huber, *System und Geschichte des Schweizerischen Privatrechts*, IV, *Geschichte des Schweizerischen Privatrechts*, Basel 1893, pp. 107-126; U. Stutz, *Die Schweiz in der deutschen Rechtsgeschichte*, in *Sitzungsberichte der preussischen Akademie der Wissenschaften*, 1920, IV, pp. 92-114.

cantiere, men che meno avanzare dubbi sull'attendibilità delle loro conclusioni. Che erano, nell'ottica romanistica, tutt'altro che euforiche, se è vero che il primo vide nel diritto romano solo un "modesto ingrediente" della prassi giuridica medievale<sup>4</sup> e una presenza sporadica e contenuta in epoca moderna, comunque ben lontana dalla *receptio in globo vel in complexu* lentamente subentrata in ambito imperiale<sup>5</sup>. Appurata così la singolarità dell'evoluzione svizzera, ossia una continuità tutta "germanistica"<sup>6</sup>, il silenzio era poi calato sul tema. Un silenzio più subito che condiviso, almeno così mi pare.

All'appello aderirono dunque in molti, che subito si misero al lavoro. Già nel 1955 si costituì una comunità di studiosi, decisa a celebrare i fasti medievali dello *ius romanum in Helvetia*<sup>7</sup>. Le premesse per ragionarne erano ideali, gli stimoli esterni salutari, l'esito in realtà dall'inizio scontato. Ragione per cui, dopo vent'anni di ricerche a tappeto, tutte destinate a tastare il polso alla presenza romanistica<sup>8</sup>, l'interprete più versatile e fecondo di questa eccezionale stagione, l'indimenticato Ferdinand Elsener, poté trarne conclusioni a dir poco lusinghiere<sup>9</sup>. Sconfessavano infatti le tesi di Huber e Stutz, che avevano forse esagerato nel minimizzare, e mostravano che i territori dell'antica Confederazione avevano invece ampiamente registrato e assorbito il nuovo messaggio. Stavano a documentarlo la ragguardevole presenza di giuristi nei tribunali ecclesiastici e nelle amministrazioni cittadine, il favore concesso alle procedure arbitrali, il ricorrere di una terminologia culta nella prassi documentaria e legislativa – peraltro rivelatrice di una indubbia collaborazione notarile – come anche altri indizi, qui non evocati in dettaglio<sup>10</sup>. Permettevano di concludere che a cavallo fra medioevo ed età moderna la Confederazione si disponesse a recepire *in complexu* forme e contenuti vei-

<sup>4</sup> Huber, *Geschichte* cit., p. 115.

<sup>5</sup> *Ibidem*, p. 118.

<sup>6</sup> Stutz, *Die Schweiz* cit., pp. 95, 105-106, 111; K.J.A. Mittermaier, *Über die neuesten rechtshistorischen Forschungen in Bezug auf die Schweiz und den Werth der schweizerischen Rechtsgeschichte für das Studium des Rechts*, in «Kritische Zeitschrift für die Rechtswissenschaft und Gesetzgebung des Auslandes», 11 (1839), pp. 79-99, *passim* e specialmente pp. 81, 99. Sul concetto di "continuità germanistica" si veda *infra*, nota 133.

<sup>7</sup> Questo non era solo il "logo" del gruppo di circa 25 membri, che operò sotto la direzione del romanista vodese Philippe Meylan. Era altresì il titolo della collana destinata a far conoscere le ricerche più significative germogliate dall'iniziativa. Che comunque, dopo aver pubblicato tre titoli fra il 1964 e il 1967, restò inattiva.

<sup>8</sup> Elenchi bibliografici di contributi svizzeri si leggono in P. Caroni, *Einflüsse des deutschen Rechts Graubündens südlich der Alpen*, Köln - Wien 1970 (Forschungen zur Neueren Privatrechtsgeschichte, 14), p. 2, nota 7; Th. Bühler, *Die Methoden der Rezeption des römisch-gemeinen Rechts in die Erbrechte der Schweiz*, in «Zeitschrift der Savigny-Stiftung für Rechtsgeschichte» [d'ora in poi «ZRG»], Germanistische Abteilung, 120 (2003), pp. 1-60, p. 3 nota 9.

<sup>9</sup> Considerazioni riassuntive in F. Elsener, *Die Schweizer Rechtsschulen vom 16. bis zum 19. Jahrhundert, unter besonderer Berücksichtigung des Privatrechts*, Zürich 1975, pp. 20-24.

<sup>10</sup> Il consuntivo appare in realtà troppo euforico, sarebbe a mio avviso da rivedere e forse correggere. Già perché molti indizi non reggono ad un esame storiografico comprensivo dell'entropia delle singole situazioni. Ma il tema esula da quello qui approfondito, basti perciò questo breve accenno.



colati dalla scienza giuridica, che allora era per antonomasia quella canonistica e romanistica. Proprio come tutti gli altri territori imperiali<sup>11</sup>.

Ma nell'età moderna la traiettoria si interruppe, anche se non bruscamente. E quello che forse non fu che un fuoco di paglia a poco a poco si spense. Cos'era successo? Chi aveva creduto alle nuove certezze, quelle così bene riassunte da Elsener, o ne era comunque convinto sulla scorta di proprie ricerche, dovette cercarne le ragioni in avvenimenti esterni, capaci di incrinare una parabola tanto promettente. E le individuò in quelle turbolenze, che negli ultimi anni del XV secolo avevano messo a dura prova il rapporto fra la Confederazione e l'Impero. Scatenate apparentemente dall'opposizione svizzera alle decisioni della Dieta di Worms del 1495, quindi anche dalla chiusura nei confronti del nuovo *Reichskammergericht*, dal conflitto militare con l'aristocrazia sveva, poi accantonato con la pace di Basilea del 1499, avevano finalmente provocato se non una rottura formale, almeno un allontanamento della Confederazione dall'Impero, quindi anche da quel diritto romano-comune, che l'ordinanza del 1495 – dandone per scontata la conoscenza – imponeva ai giudici del nuovo tribunale di applicare in prima battuta<sup>12</sup>. Se qualche perplessità *vis-à-vis* di tale spiegazione appare lecita<sup>13</sup>, nessun dubbio adombra finora il giudizio sulle conseguenze di questa interruzione e dell'involuzione che ne seguì. Investe i tre secoli dell'epoca moderna, fino alla caduta della vecchia Confederazione, nel 1798. Li considera tutti connotati *negativamente*, quindi marcati da imbarbarimento, declino, decadenza, regresso, ristagno, concretamente dalla scomparsa di tutti quegli indizi così promettenti, che avevano vivacizzato la "protorecezione". Una chiusura rimpetto al progresso e all'incivilimento, se si vuole, anche se non proprio una catastrofe<sup>14</sup>. Perché qualche traccia sporadicamente si intravede, anche se non è paragonabile – né per intensità, né per durata – a quanto stava succedendo altrove. Poi anche perché l'immobilismo, così minacciosamente assunto a simbolo di tre secoli di grigia mediocrità, va (semmai) riferito unicamente alla cultura giuridica e non alla pratica del diritto. Nemmeno dunque a quelle regole giuridiche, alle quali ogni società ricorre e che si appropria secondo modalità, che intimamente le corrispondono<sup>15</sup>; non potendosi ragionevolmente ammettere che una società abbia mai dovuto rinunciare a disciplinare ambiti bisognosi di ordine per l'impossibilità "culturale" di intervenire.

Detto ora diversamente: se appare lecito affermare, che il revival di ricerche medievistiche provocate dall'appello di sessant'anni fa permetta tuttora una valutazione leggermente più ottimistica di quella a suo tempo formulata da Eugen Huber, in punto all'età moderna nulla sostanzialmente è cambiato. Qui la moderazione rimane di prammatica<sup>16</sup>.

<sup>11</sup> Elsener, *Rechtsschulen* cit., p. 24; Bühler, *Methoden* cit., p. 2; R. Pahud de Mortanges, *Schweizerische Rechtsgeschichte. Ein Grundriss*, Zürich - St. Gallen 2007, pp. 134-139.

<sup>12</sup> Elsener, *Rechtsschulen* cit., pp. 27-30.

<sup>13</sup> Perplessità che alludono all'esistenza (e forse anche alla prevalenza) di *altre cause* della deprecata involuzione. Si veda in merito quanto si afferma *infra*, alla nota 39.

<sup>14</sup> Elsener, *Rechtsschulen* cit., pp. 30-33, 117, 146, 237-260, 269, 277, 366.

<sup>15</sup> Sul nesso fra la struttura politica di una società e il suo diritto si veda *infra*, nota 39.

<sup>16</sup> Così F. Elsener, *Studien zur Rezeption des gelehrten Rechts. Ausgewählte Aufsätze*,

## 2. Il ribaltone

Stando così le cose da oramai qualche decennio, perché riaprire il discorso? Cosa ci spinge a riproporre temi, che da tempo credevamo oramai completamente esplorati? È il recente intervento di un noto storico del diritto svizzero, Theodor Bühler, che se condivide quanto finora appurato in punto all'evoluzione medievale<sup>17</sup>, giudica diversamente quanto avvenne poi in epoca moderna<sup>18</sup>. Non nega del tutto la distinzione fra protorecezione (medievale) e la recezione vera e propria. Ma sconfessa ugualmente sia Eugen Huber che Ferdinand Elsener quando contesta l'involuzione in epoca moderna. Le sostituisce piuttosto un lento, ma continuo dilatarsi della presenza romanistica; poco appariscente, ma a suo modo implacabile, come lo può esser un costante stillicidio<sup>19</sup>. Scandito da infiltrazioni, contagi, imitazioni, influssi, ossia da operazioni tutto sommato modeste, segnalate dall'uso di frasi, nozioni e definizioni mutate (più o meno abilmente) dall'inesauribile *thesaurus* giusromanistico. In capo alle quali prese però corpo quanto finora nessuno aveva mai ardito pensare, men che meno scrivere: una recezione del diritto romano-comune tale da esser parificata a quanto era avvenuto nei paesi confinanti. L'affermazione conclusiva del saggio di Bühler fuga in merito ogni dubbio: «Die Rechtsentwicklung in der Schweiz ist somit keine andere als in Süddeutschland, Italien und Frankreich»<sup>20</sup>.

Questo esito appare subito clamoroso; ne è convinto – e perfino fiero – dapprima l'autore, certo com'è di aver finalmente accantonato le logore versioni finora correnti, quelle che ho appena tentato di riassumere<sup>21</sup>. E ne sono

Sigmaringen 1989, pp. 64-65, ove si conferma esplicitamente la visione di Eugen Huber. Punto di vista ora condiviso da Pahud de Mortanges, *Schweizerische Rechtsgeschichte* cit., pp. 141-142, anche se servendosi dell'etichetta (magari fuorviante) di «Extensivierung der Verwissenschaftlichung». Sempre ancora notevoli ed equilibrati i giudizi di P. Liver, *Allgemeine Einleitung*, in *Berner Kommentar, Einleitungsband*, Berna 1962, pp. 14-20; C. Schott, *Wir Eidgenossen fragen nicht nach Barteile und Baldele...*, in *Gerichtslaube-Vorträge. Freiburger Festkolloquium zum 75. Geburtstag von Hans Thieme*, a cura di K. Kröschell, Sigmaringen 1983, pp. 17-45; C. Schott, *Die Eidgenossen vor dem Reichskammergericht*, in *Deutsches Recht zwischen Sachsenspiegel und Aufklärung. Zum 70. Geburtstag von R. Lieberwirth*, a cura di G. Lingelbach e H. Lück, Frankfurt a.M. 1991, pp. 79-93.

<sup>17</sup> Bühler, *Methoden* cit., p. 2.

<sup>18</sup> Aveva già affermato anni fa, forse esagerando, che la storia della recezione del diritto comune in Svizzera «bleibt somit noch zu untersuchen und darzustellen» (Th. Bühler, *Emil Remigius Frey's Abhandlung zur Rezeption des römischen Rechts in der Schweiz*, in *Rechtsgeschichte und Interdisziplinarität. Festschrift für C. Schott zum 65. Geburtstag*, a cura di M. Senn e C. Soliva, Bern - Frankfurt a.M. 2001, pp. 99-108, la frase citata a p. 108). Ribadisce questa (discutibile) affermazione in *Methoden* cit., p. 4, e dedica la parte centrale del suo saggio (pp. 25-53) a colmare questa "lacuna".

<sup>19</sup> Bühler usa perciò i termini di "Infiltration" (*Methoden* cit., pp. 9, 59) oppure "Träufeln" (*ibidem*, p. 59).

<sup>20</sup> *Ibidem*, p. 60. Ho formulato un primo, sommario giudizio in merito in P. Caroni, *Al di fuori di ogni contrapposizione dialettica: "Vaterländisches Recht" nella Svizzera settecentesca*, in *Il diritto patrio tra diritto comune e codificazione (secoli XVI-XIX)*, a cura di I. Birocchi e A. Mattone, Roma 2006, pp. 173-197, specialmente p. 176, nota 9.

<sup>21</sup> Così esplicitamente in due recensioni pubblicate in «ZRG», Germanistische Abteilung, 123

parimenti convinti quegli storici, che hanno subito plaudito alle sue conclusioni – senza comunque entrare nei dettagli<sup>22</sup> – forse perché permettono, se condivise, di cancellare finalmente quest’ultima isola ribelle nel bel mezzo di una mappa continentale dominata dalla supremazia del diritto comune. Voglio dire: le tesi di Bühler corrodono certezze secolari. Meritano, già per questo motivo, di venir analizzate con rigore.

### 3. *Quale (concetto di) recezione?*

Quando ragiona sulla «recezione del diritto romano-comune»<sup>23</sup>, l’autore sceglie di muoversi in un’area chiaramente circoscritta, quella della «nomenclatura»<sup>24</sup>, delle espressioni<sup>25</sup>, quindi di una *terminologia* di chiara ascendenza romanistica, come risulta dalla folta documentazione pubblica o privata, negoziale o legislativa, che cita con grande cura. La ritiene ovviamente un indizio non solo importante, ma anche sufficiente, di una continua e silenziosa penetrazione di un mondo *altro* nelle fonti locali. Circoscrivendo così il campo delle sue ricerche l’autore si distanzia consapevolmente da quell’approccio storiografico – propiziato da Franz Wieacker<sup>26</sup> e condiviso anche da Ferdinand Elsener<sup>27</sup> – che insisteva piuttosto sul lento emergere della scienza giuridica e vedeva perciò nella recezione del diritto comune anzitutto la transizione a un nuovo stadio dell’evoluzione, quello che si esprime, come ricordava Savigny, in un «orientamento scientifico», in forza del quale il diritto «ora appartiene alla coscienza dei giuristi»<sup>28</sup>. È una scelta legittima, quella di Bühler, oltre a tutto semplifica la ricerca, poiché la riduce a un rapido e quasi meccanico compulsare di fonti, che garantisce sempre anche rapide scoperte. Ma a me pare ugualmente discutibile, massime poiché inidonea

(2006), p. 579 e «Schweizerische Juristen-Zeitung», 102 (2006), p. 23.

<sup>22</sup> Per esempio G. Wesener in «ZRG», Romanistische Abteilung, 124 (2007), pp. 567-568; L. Waelkens in «Revue historique de droit français et étranger», 84 (2006), p. 321 (che conclude però il suo commento con un’avvertenza a dir poco sibillina: «À décharge des collègues qu’il amende: le droit romain ‘classique’ est un produit du dix-neuvième siècle et on peut donc bien avoir des difficultés à le retrouver dans les actes antérieurs»).

<sup>23</sup> Così esplicitamente già il titolo del saggio.

<sup>24</sup> Bühler, *Methoden* cit., p. 11.

<sup>25</sup> È dunque parola di «Ausdruck» (*ibidem.*, pp. 13, 15, 19, 20, 31), «Begriff» (*ibidem.*, pp. 14, 41, 51), «Verbum» (*ibidem.*, p. 12), «Formel» (*ibidem.*, p. 12), «Bezeichnung» (*ibidem.*, p. 16), «Wort» (*ibidem.*, p. 17), «terminus technicus» (*ibidem.*, p. 52).

<sup>26</sup> Wieacker, *Privatrechtsgeschichte* cit., pp. 113 sgg. Già nella prima edizione di questo celebre manuale, che è del 1952, l’autore aveva optato per questo diverso approccio, raccogliendo l’applauso esplicito di W. Kunkel, «ZRG» Romanistische Abteilung 71 (1954), pp. 520 sgg. Sul punto si veda anche T. Giaro, *Alt- und Neuropa, Rezeptionen und Transfers*, in *Modernisierung durch Transfer zwischen den Weltkriegen*, a cura di T. Giaro, Frankfurt a.M. 2007, pp. 273-317, specialmente 282.

<sup>27</sup> Lo sottolinea anche D. Willoweit nella premessa agli articoli scelti di Elsener, *Studien* cit., pp. 7-15.

<sup>28</sup> F.C. von Savigny, *Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschaft*, Heidelberg 1814, p. 12 (qui nella traduzione in G. Marini, A.F.J. Thibaut-F.C. Savigny, *La polemica sulla codificazione*, Napoli 1982, p. 100).

a cogliere e descrivere la complessità delle situazioni via via esaminate. Come tenterò di mostrare.

3.1. Se nel 1980 poteva sembrare scontato vedere nella recezione anzitutto un apporto terminologico-concettuale<sup>29</sup>, oggi questa scelta è difficilmente condiscutibile, appare persino quale occasione sprecata. In questi ultimi trent'anni sono infatti emerse nuove metodologie, che hanno guardato diversamente anche al tema qui discusso e l'hanno così liberato da quell'angusta gabbia, nella quale l'avevano spesso rinchiuso gli storici del diritto<sup>30</sup>. Per farne finalmente una categoria generale della storia sociale in senso lato, quindi della cultura, della letteratura, della linguistica, della musica, *anche* (ma appunto non solo) del diritto. Le loro riflessioni hanno gettato nuova luce su fatti oramai appurati, ne hanno fatto risaltare aspetti finora ignoti o poco considerati. E hanno a tal modo vivacizzato il nostro approccio a un tema che lentamente stava atrofizzandosi.

Ragionandone riassuntivamente qui<sup>31</sup>, penso *anzitutto* a come l'ermeneutica ha spostato la nostra attenzione sul destinatario di un messaggio, dal quale solo dipende in ultima analisi il significato concreto conferito a un *recipendium*. A come ci ha insegnato a considerarne i giudizi<sup>32</sup>, a metterli in relazione non tanto con un suo atto valutativo, quanto con la sua precomprensione, ragione per cui è sembrato lecito affermare che il destinatario recepisce non come vuole, nemmeno come può, ma come è<sup>33</sup>. Ma alludo *pure* alla fecondità di quel dibattito che, provocato da *statements* salutarmente disparati – come lo sono quelli espressi da fautori della teoria sistemica, da evolucionisti, da comparatisti, da sociologi e da storici – ha ripetutamente e a lungo messo a fuoco il tradizionale concetto di recezione, contrapponendolo ad altri ritenuti opposti o complementari, come per esempio *transfer*, *trans-*

<sup>29</sup> L'autore aveva ragionato sul concetto di recezione e respinto la tesi della "Verwissenschaftlichung", senza peraltro motivare questa sua scelta, in *Rechtsquellentypen*, Zürich 1980, pp. 50-68. Analoghe le riflessioni di J. Lautner, che dal 1930 al 1967 era stato titolare della cattedra romanistica nell'Università di Zurigo (J. Lautner, *Zur Bedeutung des römischen Rechts für die europäische Rechtskultur und zu seiner Stellung im Rechtsunterricht*, Zürich 1976, pp. 27, 45-46, 128 nota 269). Ma Lautner fu meno drastico nel separare i due momenti: si veda p. 27 nota 61.

<sup>30</sup> Un esempio basta a documentarlo, quello della voce *Rezeption* nell'*Evangelisches Staatslexikon*, Stuttgart-Berlin 1966, p. 1874. Redatta da H. Coing vedeva nella recezione «den Vorgang der Aufnahme des römischen Rechts in Deutschland, im späteren Mittelalter und am Beginn der Neuzeit. Die Rezeption war ein langdauernder Prozess, der im 13. Jahrhundert begann und erst im 16. Jh. seinen Abschluss fand». Nell'ultima edizione di questo prestigioso dizionario enciclopedico, quella del 2006, la voce è scomparsa del tutto.

<sup>31</sup> L'accento si vuole sommario, non essendo questo il tema del presente contributo.

<sup>32</sup> Notevolissime anticipazioni di questo metodo in P. Koschaker, *Europa und das römische Recht*, München-Berlin 1966<sup>4</sup>, p. 282; Wieacker, *Privatrechtsgeschichte* cit., pp. 16 sgg., 45.

<sup>33</sup> P. Caroni, *Receptio duplex vel multiplex. L'ABGB nel contesto svizzero*, in *L'ABGB e la codificazione asburgica in Italia e in Europa*. Atti del convegno internazionale, Pavia 11-12 ottobre 2002, a cura di P. Caroni ed E. Dezza, Padova 2006, pp. 497-524, specialmente 516-517, 520; P. Caroni, *Gesetz und Gesetzbuch. Beiträge zu einer Kodifikationsgeschichte*, Basel - Genf-München 2003, pp. 303 sgg.

*plant, borrowing, acception, translatio, traditio, Wiedergeburt, ecc.*<sup>34</sup>. Senza dimenticare in terzo luogo quell'importante filone di ricerche che indaga da qualche anno sulla "Verschriftlichung" tardomedievale del diritto consuetudinario locale, trasmesso finora solo oralmente. E che non si accontenta di appurare il contenuto di questo diritto, ma si interroga preferibilmente sui motivi di tale operazione, sulle procedure di volta in volta seguite e sulle conseguenze che provocò, rispettivamente sull'impatto concreto del diritto scritto sulla realtà sociale<sup>35</sup>.

3.2. Se avesse frequentato anche solo uno di questi cantieri, tuttora aperti e operosi; e se avesse tentato di riflettere su quanto proponevano e propongono, Bühler si sarebbe tosto accorto che la strada imboccata per "scoprire" la recezione non era la più indicata. Sugeriva infatti di aggrapparsi esclusivamente alle parole, senza tener conto del loro entroterra, ossia di tutto quanto le incorniciasse: della società che le aveva prima volute e confezionate, poi adoperate e inserite in quei documenti, nei quali noi oggi, a distanza di secoli, le riscopriamo. E analogamente non riteneva urgente appurare il significato concreto di questo "trapianto", delle pratiche che facilitò, provocò oppure impedì<sup>36</sup>.

Semplifica magari la ricerca, questa scorciatoia, come ho ricordato. Ma nasconde altresì una verità fondamentale: che le parole, quelle che contano, non arrivarono da sole, spinte dal vento di mezzogiorno, ma furono piuttosto accompagnate da mani tanto o poco esperte. Che sapevano come maneggiarle e come ora sottenderle (o sostituirle) al diritto preesistente. Fuor di metafora: abbagliato dalla "semplicità" del metodo poi scelto, l'autore ha preferito non vedere che la terminologia giusromanistica era in realtà il biglietto da visita dei giuristi, e che loro, i giuristi, erano l'oggetto del desiderio. Dove venivano per-

<sup>34</sup> Una sede indubbiamente privilegiata di questo dibattito è stato, negli ultimi dieci anni, il Max-Planck-Institut für Europäische Rechtsgeschichte di Francoforte. Averlo animato con intelligenza pari al coraggio è stato un grande merito della compianta collega Marie Therese Fögen. Si veda per esempio: M.T. Fögen e G. Teubner, *Rechtstransfer*, in «Rechtsgeschichte», 7 (2005), pp. 38-45; G. Teubner, *Rechtsirritationen. Der Transfer von Rechtsnormen in rechtssoziologischer Sicht*, in *Soziologie des Rechts. Festschrift für E. Blankenburg*, a cura di J. Brand, Baden-Baden 1998, pp. 233 sgg.; Giario, *Alt- und Neuropa* cit., pp. 279-290. In campo comparatistico il dibattito viene periodicamente vivacizzato dalla contrapposizione delle tesi di A. Watson (per esempio in *Legal Transplants: an approach to comparative Law*, Athens-Georgia 1993<sup>2</sup>) e P. Legrand (*Le droit comparé*, Paris 2009<sup>3</sup>, *passim*; ma anche *The same at the different*, in *Comparative Legal Studies: Traditions and Transitions*, a cura di P. Legrand e R. Munday, Cambridge 2003, pp. 240-311). Tentano con grande prudenza di percorrere una via mediana i due contributi di G.M. Rehm, *Transplants as tool of legal reform*, e R. Knieper, *Boundaries and potentials in the transfers of law: An advisors's view of legal cooperation*, in «Rabels Zeitschrift für ausländisches und internationales Privatrecht», 72 (2008), pp. 1-42 e 88-113.

<sup>35</sup> Si veda anzitutto S. Teuscher, *Erzähltes Recht. Lokale Herrschaft, Verschriftlichung und Traditionsbildung im Spätmittelalter*, Frankfurt a.M. - New York 2007.

<sup>36</sup> Di «trapianto normativo» ha parlato U. Santarelli in un'acuta voce di enciclopedia (*Recezione*, in *Enciclopedia del diritto*, vol. XXXIX, Milano 1988, pp. 58-68, la citazione a p. 59). Ma ha subito precisato che in realtà il concetto di recezione non rinvia a singole norme dapprima inserite nel (e più tardi derivate dal) *Corpus iuris*, ma ad un fenomeno ben altrimenti complesso, del quale la scienza giuridica – con la cultura, dalla quale germogliò – fu costitutiva (pp. 66-67).

ciò attesi e blanditi, perché ritenuti capaci di corrispondere alle attese dei loro committenti, rispettivamente di realizzare le riforme da questi auspiccate, non arrivavano a mani vuote, ma muniti di solida scienza. Non però di una scienza giuridica *qualunque*, ma della sola disponibile allora. Che era concreta, perché cresciuta su materiali storici, quelli ordinati nel *Corpus iuris*. Per questo motivo non è facoltativo, ma *inevitabile* vedere nella recezione del diritto comune anzitutto una vera e propria “*Verwissenschaftlichung*”<sup>37</sup> della pratica giuridica. L’aveva intuito Savigny nel frammento già citato, lo ribadì due generazioni più tardi con granitica certezza Rudolf Sohm: «Weil wir der fremden Rechtswissenschaft bedurften, haben wir das fremde Recht rezipiert»<sup>38</sup>.

Ora è appurato, che il motivo determinante del rifiuto svizzero della recezione non fu la paura di dover vivere sotto un diritto diverso, nuovo ed estraneo, perciò incomprensibile, ma piuttosto il desiderio di opporsi alla presenza e all’attività dei giuristi. Era radicato nelle strutture repubblicane dei singoli Cantoni, di quelli cittadini come di quelli campagnoli, intendeva dunque garantire una gestione diretta e democratica delle faccende giuridiche, impedendo che venissero monopolizzate dagli specialisti<sup>39</sup>. Ai quali gli umori popolari riservarono spesso apprezzamenti poco gratificanti. È ben vero che, dal suo punto di vista, Bühler non è tenuto a ragionare su questi interrogativi<sup>40</sup>. Ma non può ugualmente impedire a chi muove da altre pre-

<sup>37</sup> Vocabolo quasi intraducibile. Anche se letteralmente aderente, «scientificizzazione» (così U. Santarelli rende in italiano il vocabolo usato da Wieacker: *Storia del diritto privato moderno*, I, Milano 1980, pp. 187 sgg.) irrompe nella frase con il fragore di un mattone lanciato contro una vetrina.

<sup>38</sup> R. Sohm, *Die deutsche Rechtsentwicklung und die Codificationsfrage*, in «Zeitschrift für das Privat- und öffentliche Recht der Gegenwart», 1 (1874), pp. 245-280, la frase citata a p. 258.

<sup>39</sup> Molti autori vedono nell’istinto repubblicano, quindi nella vitalità di strutture associazionistico-democratiche, il motivo prevalente dell’opposizione alla salita in cattedra della scienza giuridica. Così ad esempio F. von Wyss, *Das Schweizerische Privatrecht in seiner Beziehung zur Rechtswissenschaft*, Zürich 1863, pp. 3-7; Paul F. von Wyss, *Über Rechtsstudium in der Schweiz und Studium des Schweizerischen Rechts*, Basel 1874, pp. 6-7; Huber, *Geschichte* cit., p. 122; Liver, *Allgemeine Einleitung* cit., pp. 17-18; Lautner, *Bedeutung* cit., p. 44; Schott, *Wir Eidgenossen* cit., pp. 40-45; P. Caroni, *Statutum et silentium. Viaggio nell’entourage silenzioso del diritto statuario*, in «Archivio storico ticinese», 32 (1995), pp. 129-160, specialmente 148; Caroni, *Rechtseinheit. Drei historische Studien zu Art. 64 BV*, Basel - Frankfurt a.M. 1986, pp. 95-96. A conferma di quella tesi, che crede nella congruenza fra strutture politiche e l’articolarsi del diritto. Così esplicitamente già E. Huber, *Die Schweizerischen Erbrechte in ihrer Entwicklung seit der Ablösung des alten Bundes vom deutschen Reich*, Bern 1872, pp. V e 87 e recentemente Caroni, *Vaterländisches Recht* cit., pp. 177, 186. Congruenza del resto documentata anche dall’atteggiamento apertamente ostile della repubblica oligarchica veneziana e del suo patriziato nei confronti della scienza giuridica, delle *subtilitates iuris* e del diritto comune. Erano in compenso tenaci assertori dell’*aequitas* e dell’*arbitrium* giudiziale, quindi di un approccio pragmatico ai problemi della giustizia. Si veda per esempio G. Cozzi, *La politica del diritto nella repubblica di Venezia*, in G. Cozzi, *Repubblica di Venezia e stati italiani. Politica e giustizia dal secolo XVI al secolo XVIII*, Torino 1982, pp. 217-318, *passim*; G.M. Varanini, *Gli statuti delle città della Terraferma veneta nel Quattrocento*, in *Statuti città territori in Italia e in Germania tra medioevo ed età moderna*, a cura di G. Chittolini e D. Willoweit, Bologna 1991, pp. 247-317, specialmente 257-261, 296, 313; A. Cavanna, *La storia del diritto moderno (secoli XVI-XVIII) nella più recente storiografia italiana*, Milano 1983, pp. 59-63, 110.

<sup>40</sup> Avendo scelto di inventariare i fonemi giusromanistici, tutto il resto, quindi anche l’esplora-

messe e giudica condizionato da altre coordinate di formulare apprezzamenti meno euforici.

Concretamente: l'emersione – peraltro incontestata – di una terminologia vagamente sapienziale nelle fonti giuridiche di un territorio, il cui diritto ancora «viveva nella coscienza di tutto il popolo»<sup>41</sup>, appare problematica. Sembra infatti documentare più un contatto episodico, fortuito e superficiale che non la volontà esplicita di servirsi di una forma per impadronirsi del corrispondente contenuto. Un contatto volto a rivestire di un abito moderno, un po' esotico e indubbiamente elegante, una realtà tradizionale e tuttora condivisa. Non mancano attestazioni esplicite in questo senso<sup>42</sup>, come anche casi di fantasiose storpiature (o maldestre manipolazioni) della terminologia classica<sup>43</sup>. Fanno pensare a quelle piante appunto esotiche, che rincasando dalle vacanze – e forse violando le prescrizioni doganali – portiamo con noi per prolungare il ricordo delle vacanze, e che nel giro di poche settimane poi avvizziscono, venendo loro a mancare l'habitat. Questo fu magari anche il destino di molte formule freneticamente volute<sup>44</sup>, ma poi – prive loro pure del necessario habitat, che solo il giurista poteva garantire – risucchiate dalla logica di un diritto ancora popolare.

3.3. Può avere un suo fascino (più o meno discreto) la caccia alle parole rivelatrici, che il nostro autore ha praticato con abnegazione. Già, perché ha mimato con successo quella disinvoltura, con la quale talvolta i comparatisti saccheggiano la storia per colmare i vuoti delle loro cattedrali. Sanno che così facendo manipolano il passato e lo colonizzano a piacere, ne sono talvolta – bontà loro – persino fieri, anche se feriscono la suscettibilità degli storici. Ma non per questo demordono<sup>45</sup>.

zione del loro divenire, esulava infatti dalle sue ambizioni.

<sup>41</sup> Savigny, *Beruf* cit., p. 11 (qui nella traduzione in Marini, *La polemica* cit., p. 100).

<sup>42</sup> Citano casi concreti: Huber, *Geschichte* cit., pp. 116-117; P. Walliser, *Römischrechtliche Einflüsse im Gebiet des heutigen Kantons Solothurn vor 1500*, Basel - Stuttgart 1965, pp. V e 223; L. Carlen, *Walliser Rechtsgeschichte. Ausgewählte Aufsätze*, Brig 1993, pp. 268-269; Caroni, *Einflüsse* cit., pp. 35-36, 209. Desto invece qualche sorpresa il fatto che anche Bühler se ne renda chiaramente conto, si veda *Methoden* cit., pp. 6, 7, 8, 13, 14, 16-17, 18, 19, 25, 29, 32, 35, 39, 41, 47, 48, 49, 52, 53, 55.

<sup>43</sup> Chi consulta ad esempio le convenzioni concluse in vista del matrimonio o gli atti *mortis causa*, si imbatte regolarmente in storpiature talvolta molto colorite di termini classici, così ad esempio della dote «cui dicitur morkengaba, vel cresementum vel augmentum dotis» (così in una redazione del diritto consuetudinario vallesano della prima metà del XV secolo, si veda A. Heusler, *Rechtsquellen des Cantons Wallis*, Basel 1890, p. 157).

<sup>44</sup> Di «frénésie de formules romaines» ha parlato S. Stelling-Michaud, *L'Université de Bologne et la pénétration des droits romain et canonique en Suisse*, Genève 1955, p. 234.

<sup>45</sup> Rinvio in merito a quanto ho scritto recentemente in P. Caroni, *La solitudine dello storico del diritto. Appunti sull'inerenza di una disciplina altra*, Milano 2009, pp. 185-186. A questi rilievi aggiungo un'ultima «perla», scoperta recentemente, ossia la candida confessione che si legge in P. Jung, *Die Kodifikation des Europäischen Zivilrechts im Spiegel historischer Texte*, Halle - Wittenberg 2004, p. 3: «Ich muss hier vorwegschicken, dass ich insoweit gänzlich unhistorisch vorgehe und die Texte nicht nur losgelöst von ihrem jeweiligen zeitgeschichtlichen Kontext als

Ma Bühler non è un comparatista. Se rincorre, colleziona e ordina quelle parole-chiave, delle quali si è detto, non lo fa per riparare il tetto della sua casa, quindi non per sovvenire al presente. Lo fa piuttosto per documentare una continuità. Ma quale? Quella che può ragionevolmente sprigionarsi dalle parole. Ma da parole, è bene non dimenticarlo, preventivamente espropriate del loro *entourage*, in un certo senso scarnificate e solo grazie a questa “cura” parificate, allineate a documentare una *longue durée*, che lo storico del diritto sembra peraltro apprezzare più dei suoi colleghi di discipline contigue<sup>46</sup>.

Non credo che la “resa” di quest’operazione sia modesta. Ma va pur detto che è esclusivamente di natura *omofonica*. Documenta infatti la continuità di *suoni*, quelli prodotti dalle parole scritte (magari) nello stesso modo, ma che di volta in volta, se reinserite nel loro contesto spaziale e temporale, assumono poi significati diversi<sup>47</sup>. Ognuno ha naturalmente il diritto di votarsi a queste ricerche, di apprezzarne e diffonderne gli esiti. Ma chi si accontenta di una resa omofonica per inferirne *anche* una continuità di significati (materiali) – questa è in fondo l’ambizione del nostro autore – prende secondo me lucciole per lanterne. Ed evoca scenari destinati a rimanere del tutto immaginari.

#### 4. La sussidiarietà del diritto comune

Se mi fermassi qui, a questo consuntivo schematico e poco lusinghiero, farei giustizia sommaria. Preferisco perciò verificare queste mie conclusioni, saggiarne la plausibilità. Per esempio mostrando le conseguenze negative dell’oscuramento di quel contesto, che accerchiava le parole-chiave via via usate dal nostro autore. E di farlo analizzando qualche situazione concreta, sulla quale lui pure si è soffermato.

La prima ruota attorno a quella massima, che invitava il giusdicente a far capo al diritto comune per sopperire al silenzio del diritto locale-statutario, applicabile in prima battuta. Il suo significato concreto non era scontato, ma dipendeva dal contesto culturale. In *Italia*, ove gli statuti la evocavano spesso ed esplicitamente<sup>48</sup>, aveva una portata fondamentale, speculare com’era all’omonimo sistema delle fonti, quello che bene o male funzionò fino a due secoli fa. Prerogativa di giuristi, da loro perciò esclusivamente gestito, poiché solo loro sapevano come attingere al tesoro magmatico rinchiuso nel *Corpus*

Steinbruch zur Gewinnung und Illustration auch aktuell bedeutsamer Ideen und Argumentationsmuster heranziehe».

<sup>46</sup> Anche l’affermazione, nella quale talora ci imbattiamo, secondo cui la scansione dei “tempi lunghi” si addica perfettamente alla vita del diritto (così per esempio P. Grossi, *Prima lezione di diritto*, Roma - Bari 2003, pp. 21-22; S. Lepsius nella «Zeitschrift für Neuere Rechtsgeschichte», 27 [2005], pp. 308-309) meriterebbe di venir analizzata con maggior rigore.

<sup>47</sup> Sulla continuità “omofonica” si veda Caroni, *La solitudine* cit., pp. 193 sgg.

<sup>48</sup> «È da notarsi, che quand’anche nel presente Statuto non fosse stata espressa quest’ultima clausola, si dovrebbe nondimeno sottintendere, per la regola generale altrove stabilita, secondo l’assioma de’ legisti»: lo si legge negli *Statuti di Milano, volgarizzati con note e spiegazioni, a pubblica intelligenza e utilità*, Milano 1773, p. 133.



*iuris*, il sistema interferiva già nell'interpretazione del diritto statutario, che si auspicava possibilmente conforme al calco romanistico<sup>49</sup>. Senza di che sarebbe stato difficile chiamarlo come davvero si fece. *Altrove*, in mancanza di un medium sapienziale, ove dunque la sede del diritto era ancora «la coscienza comune del popolo»<sup>50</sup>, la sua importanza era ovviamente più modesta. Si accontentava di additare al giudice l'esistenza di un serbatoio alternativo di soluzioni concrete, alle quali ricorrere per colmare le lacune (vere o presunte) dello statuto<sup>51</sup>.

Anche Bühler la ricorda, questa massima, quando la ricca ma disparata documentazione che allega glielo permette. Ma ignora (o forse non ritiene degna di considerazione) la sua *bivalenza*. Allinea perciò situazioni molto diverse, perché caratterizzate da una sussidiarietà ovvero *forte* (*scil.* sorretta dalla scienza giuridica<sup>52</sup>), ovvero *debole* (*scil.* semplicemente alternativa<sup>53</sup>). Non credo l'abbia fatto consapevolmente, magari per dimostrare che anche in tema di sussidiarietà non avevamo nulla da invidiare ai vicini. Ma è innegabile che rimescolando impassibilmente cose diverse non si sia poi accorto di un fatto storicamente eccezionale: che cioè nei baliaggi "italiani" degli Svizzeri e delle Tre Leghe Grigie<sup>54</sup> le due valenze della sussidiarietà, attrattevi e sollecitate dalle inevitabili tensioni politiche sottese alla "sudditanza" –, si siano ripetutamente scontrate, dando vita a fuochi d'artificio, che attendono sempre ancora di venir studiati e descritti con la necessaria circospezione<sup>55</sup>. Non solo perché unici a livello continentale, come ho spesso tentato di ricordare. Ma proprio anche perché documentano quell'*insularità* dell'evoluzione giuridica confederale, che l'autore – come pretendono le sue conclusioni – ha invece voluto negare. Ragione per cui non è davvero il caso di passarli sotto silenzio.

<sup>49</sup> Gli *Statuti di Milano volgarizzati* cit., p. XI dell'*Introduzione* ricordano che «per universale sentimento de' Dottori tutte le leggi municipali di qualunque siasi nazione ricevono da quello stesso Gius commune la loro prima e naturale interpretazione». Ma è bene non dimenticare che in epoca moderna questa regola fu spesso disattesa e fece posto a un'interpretazione autonoma dello *ius proprium*. Si veda per esempio *infra*, nota 69, come anche P. Caroni, *Entwicklungstendenzen im Schweizer Rechtsleben. Bemerkungen zur schweizerischen Rechtsgeschichte der Neuzeit*, in «Zeitschrift für historische Forschung», 2 (1975), pp. 223-240, specialmente 229, e la bibliografia ivi citata.

<sup>50</sup> Savigny, *Beruf* cit., p. 11 (qui nella traduzione in Marini, *La polemica* cit., p. 99).

<sup>51</sup> Giario, *Alt- und Neuropa* cit., pp. 292-293; Caroni, *Statutum et silentium* cit., pp. 139-140.

<sup>52</sup> Bühler, *Methoden* cit., p. 44.

<sup>53</sup> *Ibidem*, pp. 2, 55, 59 (ove l'autore riassume e bilancia così: «Die Lehre von der Immunisierung des älteren schweizerischen Rechts gegenüber dem römischen Recht lässt sich nicht aufrecht erhalten. Auch ist jene gegenüber der Subsidiarität des gemeinen Rechts im Sinne einer wesentlich stärkeren Berücksichtigung zu revidieren»).

<sup>54</sup> I primi comprendevano il territorio che a partire dal 1803 divenne il Cantone Ticino; i secondi consistevano in tre distinte entità politico-amministrative, ossia la Valtellina, Chiavenna e Bormio. Si veda P. Caroni, *Sudditi subalpini a confronto*, in «Archivio storico ticinese», 38 (2001), pp. 293-298, *passim*.

<sup>55</sup> A ulteriore dimostrazione del fatto, che anche un sistema delle fonti si articola in sequela a esigenze emerse in ambito politico, in un certo senso perciò le riflette: Caroni, *Statutum et silentium* cit., pp. 146, 151.

Erano dunque terre, questi baliaggi “italiani”, nelle quali la tradizione scientifica, con le *tournures*, i miti e i rinvii, che le erano propri, si era presto insediata. Ivi presumibilmente sospinta, come pare ragionevole ritenere, dall’influenza di centri che, come Milano e Como, l’avevano subito condivisa e diffusa. Lo documenta, fra altre cose, proprio anche il rinvio sussidiario al diritto comune: già noto a statuti quattrocenteschi<sup>56</sup>, diventa in epoca moderna formula corrente<sup>57</sup>, in realtà una clausola poco meno che superflua<sup>58</sup>, anche se dai contorni vaghi, più allusivi che espliciti. Predestinata perciò a venir letta come suggerivano le strategie – spesso contrastanti – dei padroni e dei sudditi.

Ai *primi*, che da sempre amavano gestire in prima persona anche il mondo dei precetti giuridici e delle contese che ne nascevano, l’impatto con la realtà così diversa – già perché popolata da avvocati, procuratori e sapienti, che discutevano in latino e si richiamavano, quando sembrava utile, a un ordinamento lontano e inafferrabile, ma appunto non inerme – dei paesi soggetti risultò indubbiamente traumatico<sup>59</sup>. Tentarono comprensibilmente di raddrizzare il quadro o, almeno, di limitare i danni. Per esempio asserendo che le spesso invocate «leggi et ragioni comuni»<sup>60</sup> rinviassero a ben vedere al diritto del *princeps*, ossia del titolare della sovranità politica, quindi in ultima analisi al *loro* diritto comune<sup>61</sup> rispettivamente – facendo questo difetto per l’endemica frammentazione – al diritto del Cantone di origine del balivo giudicante<sup>62</sup>. Mancando ancora quasi del tutto le relative ricerche, resta arduo valutare l’esito di questo ribaltone. Ragione per cui la prudenza rimane d’obbligo. Non mancarono infatti né repliche teoriche a questo forse temerario assunto<sup>63</sup>, né echi di improvvisi ravvedimenti, al momen-

<sup>56</sup> Lugano 1441, cap. 3 e 220; Valle Maggia, in «Archivio storico ticinese», 5 (1963), p. 686.

<sup>57</sup> Bellinzona 1692, capp. 3; Valle Maggia 1626, I/1, II/79, 83; Lugano 1696, capp. 2, 114, 124, 177, 191, 197, 200, 201; per la Valtellina e Chiavenna si vedano i rinvii in Caroni, *Sudditi subalpini* cit., p. 298, nota 36.

<sup>58</sup> Lo ricordano gli *Statuti di Milano volgarizzati*, che ho già citati *supra*, nota 48.

<sup>59</sup> Caroni, *Statutum et silentium* cit., pp. 148-151; Caroni, *Sovrani e sudditi nel labirinto del diritto*, in *Storia della Svizzera italiana dal Cinquecento al Settecento*, a cura di R. Ceschi, Bellinzona 2000, pp. 581-596, specialmente 588-590.

<sup>60</sup> Così per esempio gli Statuti della Valle Maggia 1626, I/1.

<sup>61</sup> Questo il tenore dei decreti pubblicati da A. Heusler nella «Zeitschrift für Schweizerisches Recht» [d’ora in poi «ZSR»], 12 (1893), N. 443, 450/452, degli Statuti criminali di Bellinzona del 1692, cap. 27, degli Statuti di Blenio del 1500, cap. 93 e degli Statuti della Riviera 1632, cap. 93. Sul versante grigione l’equiparazione *ius commune*/diritto comune retico fu invece un fatto isolato. Vi ricorse – se vedo bene – solo J.B. Tschärner in uno scritto del 1789, teso a contestare il *Ragionamento giuridico-politico sopra la costituzione della Valtellina e del contado di Chiavenna* dell’insigne giurista valtellino Alberto de Simoni, apparso anonimo nel 1788. Si veda J.B. Tschärner, *Gründliche Darstellung der landesherrlichen Rechtsamen der hohen und Souverainen Republik Graubünden über die Provinzen Veltlin und Clefen*, Chur 1789, pp. 55-58.

<sup>62</sup> Statuti della Riviera 1632, cap. 93: nel silenzio dello statuto e della consuetudine «che il Podestà abbia d’osservare e sentenziare conforme agli statuti et consuetudini delli tre Cantoni et se nelli detti Cantoni in ciò fossero differenti, habbia di seguire quello nel suo Cantone sarà statuito e solito». Questa norma statutaria sconfessa la ricostruzione dei fatti proposta da Bühler, *Methoden* cit., p. 44.

<sup>63</sup> In ciò si distinse il giurista valtellino Giuseppe Vincenzo Besta (1752-1840), al quale dobbia-

to di attenersi alla nuova graduatoria, per esempio decidendo vertenze concrete<sup>64</sup>. Non è perciò da escludere che improvvise indolenze o sorde ostruzioni da parte dei sudditi abbiano col tempo convinto i Magnifici Signori a battere altre strade, ossia a imboccare scorciatoie esterne al reticolo tracciato dal sistema, quindi in grado di garantire esiti meno aleatori e più rapidi. Quelle per esempio che prevedevano l’emanazione e la diffusione capillare di grida e decreti<sup>65</sup>.

Quanto ai *secondi*, ossia ai *sudditi*, il loro compito era certamente diverso e forse anche più agevole. Già perché giocavano in casa, si muovevano in uno spazio materiale e dottrinario familiare, che conoscevano a menadito e che sapevano, quand’era necessario, sfruttare con destrezza (e furbizia). Per blindare il sistema, ovviamente, come usa dire oggi giorno. Non però – come eravamo abituati a pensare – in vista di farne risplendere la purezza romanistica e quindi per impedire ai Signori di inquinare con indesiderati apporti di origine barbaro-germanistica<sup>66</sup>. Ma per esigenze materiali, tutte legate alla loro situazione politica e al desiderio di non deteriorarla. Da sudditi, quali erano, vedevano infatti nel loro sistema delle fonti una diga capace di resistere agli assalti e alle incursioni dei Signori, massime poiché vanificava a limine i loro ripetuti tentativi di legiferare, di farlo senza nemmeno cercare il concorso dei destinatari, proprio come quei sovrani assoluti, ai quali peraltro molti di loro guardavano con simpatia<sup>67</sup>.

Teoricamente non era difficile servirsi del sistema delle fonti per intrappolare l’ipotetico indesiderato legislatore. Bastava ribadirne l’ubiquità spazio-temporale e la completezza materiale, la sua indiscutibile omogeneità e coerenza, quindi un’*autonomia*, che non tollerava né correzioni né aggiunte esterne. Bastava cioè rappresentarlo quale «fissa legislazione perpetua,

mo un notevole commentario manoscritto degli Statuti valtellini del 1548, datato 1795, conservato nella Biblioteca dell’Università degli Studi di Milano, Fondo Besta, B1 G55. Si diffonde sull’argomento qui all’esame sia nelle *Osservazioni generali sopra la competenza de Statuti*, § 4, sia nel commento al cap. 2 degli Statuti, art. 14. Sull’autore di quest’opera si veda qualche ragguaglio in Caroni, *Einflüsse* cit., p. 62, nota 10.

<sup>64</sup> Si vedano gli atti di un processo celebrato davanti al Tribunale della Riviera il 31 luglio e il 14 agosto 1787, ove sia l’attore che il convenuto si richiamarono alle *Institutiones Iustiniani* IV, 5, 3 (Archivio Cantonale Bellinzona, Riviera, Cartella n. 11). Ma sul valore concreto da attribuire a questo documento nulla può essere affermato, senza prima aver esaminato sistematicamente la giurisprudenza di questa istanza.

<sup>65</sup> Si veda in merito quanto ho scritto in Caroni, *Statutum et silentium* cit., pp. 157-160 e Caroni, *Sovrani e sudditi* cit., pp. 592-593.

<sup>66</sup> Formulo con qualche ironia, riproponendo comunque i termini “idealistici” di un confronto scientifico connaturale agli storici del diritto, perché radicato nella bipartizione propugnata dalla scuola storica, che ancora nel secolo scorso fu vivace.

<sup>67</sup> Se è nota l’ammirazione che Salomon Landolt, il celebre *Landvogt von Greifensee* evocato con maestria da Gottfried Keller nelle *Zürcher Novellen*, nutria per Federico il Grande di Prussia (D. Hess, *Salomon Landolt. Ein Charakterbild*, Zürich - Leipzig 1912, pp. 42, 44, 46-47, 170-171), non è meno degno di attenzione l’apprezzamento generalmente positivo da parte degli aristocratici svizzeri. Si veda per esempio, con le sfumature del caso, O. Eisenmann, *Friedrich der Grosse im Urteil seiner Schweizer Mitwelt*, Zürich 1971; R. Witschi, *Friedrich der Grosse und Bern*, Bern 1926; U. Im Hof, *Isaak Iselin und die Spätaufklärung*, Bern 1967, pp. 135-137, 196-197.

immobile e inviolabile»<sup>68</sup>, per scoraggiare ogni contrario conato. Esito questo raggiungibile ovvero dilatando ad arte la valenza del diritto statutario, insistendo perciò sull'urgenza di interpretarlo non quale semplice *ius non commune*, ma quale ordinamento autoreferenziale<sup>69</sup>; ovvero sottolineando l'assoluto, indiscutibile automatismo del soccorso offerto dal diritto comune nel malaugurato caso di lacuna statutaria. Un automatismo che chiudeva ogni discorso, poiché reprimeva «qualunque pretesto di necessaria provvidenza potesse stimolare l'alta Podestà a farvi addizioni di legislatura»<sup>70</sup>.

Quale insegnamento trarne e come concludere queste riflessioni sulla sussidiarietà del diritto comune? Affermando che se è vero che l'antagonismo politico non ha creato il divario fra le due contrapposte filosofie della sussidiarietà, va ugualmente ammesso che se n'è poi appropriato, l'ha strumentalizzato, quindi anche accentuato e irrigidito. E ciò in sequela alla funzione difensiva, alla quale il sistema delle fonti era destinato a servire.

Pare lecito dedurre, da questa prima conclusione, che venendo meno la molla politica, ove dunque le regole giuridiche potevano essere adottate o respinte senza pregiudizi per l'autonomia di chi le maneggiava, queste "circolassero" liberamente, potessero venir scelte, adottate, modificate esclusivamente in base alla loro maggior o minor idoneità a soddisfare esigenze del destinatario, a comporne i litigi, a fugarne i dubbi, a risolvere dunque problemi concreti. Le ricerche di Bühler confermano del resto pienamente questa deduzione quando documentano la ripetuta adozione di termini (e qualche volta anche dei relativi istituti) "romanistici" negli ordinamenti cittadini o campagnoli della Svizzera alemannica in epoca moderna. Singole, puntuali "annessioni", che nessuno contesta. Volendolo avrebbe potuto documentare *anche* l'operazione inversa, solo che non rientrava nel suo programma, perché ne avrebbe messo in ombra il messaggio centrale. Operazione inversa, che pur esiste e già venne studiata, consistente nell'inserimento di istituti, norme, regole di origine non sapienziale (e solo in questo senso "germanistica") in ordinamenti statutari della Svizzera italiana<sup>71</sup>. Non c'è nessun motivo di tacerle, tutte queste "manovre". Sono in realtà cose ovvie, scontate. Da che mondo è mondo anche le regole giuridiche viaggiano, se la politica non le blocca. Viaggiano per sopperire alle necessità materiali del destinatario. Come tante altre merci, del resto. E senza lasciarsi condizionare dalle nostre ottiche taroccate, che ne fanno volentieri indizi di fantomatiche recezioni (e continuità), romanistiche o germanistiche che siano.

<sup>68</sup> Così l'aveva descritto G.V. Besta nel suo *Commento* al cap. 105 degli Statuti criminali valtellinesi, p. 2.

<sup>69</sup> Questa la soluzione preferita da Besta, *Commento* al cap. 188 degli Statuti civili valtellinesi, pp. 1 e 9. Cito parzialmente questi frammenti in *Statutum et silentium* cit., pp. 154-155.

<sup>70</sup> G.V. Besta, *Commento* al cap. 105 degli Statuti criminali valtellinesi, p. 2.

<sup>71</sup> Mi permetto di rinviare a mie ricerche di quarant'anni fa, in capo alle quali ho creduto di scorgere l'evoluzione "riassunta nel testo" nelle tre valli italofone delle Leghe Grigie, ossia Mesolcina, Bregaglia e Poschiavo: Caroni, *Einflüsse* cit., pp. 147-150, 169-171, 207-209, 214-215.

## 5. Diritto comune nella Basilea degli umanisti e oltre

E ora cambiamo scenario, senza comunque abbandonare l'universo ubiquitario del diritto comune. E occupiamoci di Basilea, della città come del territorio che lentamente, dal tardo Medio Evo, le crebbe attorno<sup>72</sup>. Libera città imperiale<sup>73</sup>, dal 1460 sede universitaria, finalmente centro di una prestigiosa stagione umanistica ricca anche di feconde “ricadute” giuridiche, tutto correva a farne non un imitabile modello, ma un *unicum* nell'appartata realtà della Confederazione.

Bühler la conosce bene, la storia giuridica della città e del Cantone<sup>74</sup>, ne parla dunque con rara competenza. Non tanto per sottolineare la *peculiarità* del percorso basilese – come era lecito attendersi, viste le premesse – quanto per allinearla a quello degli altri Cantoni. Ribadisce perciò lo stillicidio di concetti romanistici<sup>75</sup>, sottolinea l'impatto della *Stadtgerichtsordnung* del 1719 (senza peraltro considerarlo decisivo<sup>76</sup>) e sposta finalmente l'apogeo della recezione al XIX secolo, quindi in piena età codificatrice<sup>77</sup>. È una scelta che ovviamente rispetto, anche se la considero con incredula perplessità. Forse perché mi attendevo altri accenti, che proprio nel caso – appunto singolare – di Basilea ritenevo fosse agevole percepire. Tento di spiegarmi, muovendo da ragionamenti già svolti in altre occasioni<sup>78</sup>.

Se nel 1432 Enea Silvio Piccolomini, presente a Basilea per il Concilio, e quindi presumibilmente non del tutto ignaro del diritto ivi vigente e applicato, poteva scrivere dei basilesi che «vivunt sine certa lege, consuetudine magis quam scripto iure utentes, sine iuris perito, sine notitia Romanorum legum»<sup>79</sup>; e se nel 1573 Basilius Amerbach poteva confermare questo giudizio in un suo notissimo consulto, ricordando che «de testamentis, tutelis, successionibus perpauca apud nos leges scriptas esse. Consuetudine vero et more recepto plura regi, reliquia, quae legibus moreve definita non sunt, ab arbitrio iudicum, ex aequo, ut aiunt, et bono pronuntiantium, magna pro parte dependere»<sup>80</sup>; nel 1719, proprio emanando il nuovo Statuto cittadino, si

<sup>72</sup> Sul lento formarsi del territorio cittadino si veda ora H.R. Hagemann, *Vielschichtiges Recht. Zivilrechtspflege im neuzeitlichen Basel*, Basel 2009, pp. 16-20.

<sup>73</sup> Sul significato concreto di questo “titolo”, tutt'altro che scontato e univoco, si veda H.R. Hagemann, *Die Rechtsgutachten des Bonifacius Amerbach*, Basel 1997, pp. 76 sgg.

<sup>74</sup> Bühler esordì come autore di opere storico-giuridiche con un notevole scritto dedicato a Andreas Heusler und die Revision der Basler Stadtgerichtsordnung 1860-1870, Basel 1963.

<sup>75</sup> Bühler, *Methoden* cit., pp. 18-21, 24-25, 26-28, 29-30, 31.

<sup>76</sup> *Ibidem*, pp. 38-42.

<sup>77</sup> *Ibidem*, pp. 57-58.

<sup>78</sup> Caroni, *Entwicklungstendenzen* cit., pp. 227-232; Caroni, *Vaterländisches Recht* cit., pp. 187-190; Caroni, *L'educazione giuridica in Svizzera dal XVI al XIX secolo*, in «Quaderni fiorentini per la storia del pensiero giuridico moderno», 5-6 (1976-1977), pp. 1009-1030, specialmente 1026-1027. Per questo motivo non tornerò a ragionare sulla bibliografia già esaminata, ma farò tesoro di quanto offre quella più recente, in *primis* ovviamente delle ricerche di H.R. Hagemann.

<sup>79</sup> Citazione integrale in Caroni, *Vaterländisches Recht* cit., p. 189, nota 77.

<sup>80</sup> Testo del consulto in H. Thieme, *Ideengeschichte und Rechtsgeschichte. Gesammelte Schriften*, Band I, Köln - Wien 1986, pp. 429-431, la citazione a p. 429; Hagemann,

voltò decisamente pagina. Non tanto perché la nuova legislazione avesse adottato un numero imprecisato<sup>81</sup> – ma comunque cospicuo – di singole regole romanistiche, quanto perché rinviò sussidiariamente al diritto comune<sup>2</sup>, sottomettendosi così, almeno formalmente e con radicalità finora sconosciuta, all'omonimo sistema delle fonti<sup>83</sup>.

Fu una mossa clamorosa, questa; prima ancora di appurarne le conseguenze concrete<sup>84</sup> lo si può lecitamente affermare. Già perché documenta con chiarezza la singolarità dell'evoluzione giuridica basilese. Una singolarità tridimensionale, visto che marca *dapprima* il rapporto fra la città e il territorio circostante (la cosiddetta "Landschaft"<sup>85</sup>), *secondariamente* quello rimpetto agli altri membri della vecchia Confederazione<sup>86</sup>, *finalmente* la posizione della libera città imperiale nei confronti dell'Impero e dei suoi innumerevoli ceti. Ove la recezione della scienza giuridica si era generalmente consumata fra il XV e il XVI secolo ed era stata, con tutte le riserve del caso, tendenzialmente totale. È l'aspetto che reclama qualche ulteriore approfondimento.

Vi è anzitutto uno scarto *cronologico*. A Basilea, come risulta da quanto si è ricordato, la transizione a una pratica giuridica sapienziale fu lenta e si concluse (se davvero si concluse) solo nel corso del XVIII secolo<sup>87</sup>. Ossia proprio in quel secolo, nel quale l'emersione del diritto naturale e la critica illuministica facevano ovunque pericolosamente vacillare il mito giustiniano<sup>88</sup>. Nell'ottica continentale l'esperienza basilese va dunque ritenuta estemporanea. Il che sarebbe un peccato veniale, dato che ogni paese ha i suoi tempi (e

*Vielschichtiges Recht* cit., pp. 22, 27, 54; Hagemann, *Bonifacius Amerbach* cit., pp. 58-59, 222; Hagemann, *Die Rechtsgutachten des Basilius Amerbach*, Basel 2001, pp. 19-20, 51-52.

<sup>81</sup> Anche perché tuttora controverso. Lo statuto basilese aveva infatti preso a modello il *Württembergisches Landrecht* del 1610, che si riteneva speculare al diritto romano. Ma si discute da tempo sia sulla reale fedeltà del modello al diritto romano (come documenta un consulto del 1850, parzialmente riprodotto da T. Bühler in «ZSR», 88 [1969], I, pp. 131 sgg., specialmente 153-155), sia su quella dello statuto basilese al modello tedesco. Opinioni discordanti esprimono per esempio B. Christ, *Die Basler Stadtgerichtsordnung von 1719. Als Abschluss der Rezeption in Basel*, Basel - Stuttgart 1969, pp. 52-62; Bühler, *Methoden* cit., pp. 39, 41; Hagemann, *Vielschichtiges Recht* cit., p. 43.

<sup>82</sup> Stadt-Gerichtsordnung 1719, art. 620 (testo completo in Caroni, *Educazione giuridica* cit., p. 1027, nota 62).

<sup>83</sup> Bühler non la evoca, questa eccezionale misura. Il che, considerato l'approccio al nostro tema da lui privilegiato, non sorprende. All'astrattezza del rinvio preferisce perciò la prova della concreta recezione di singole regole.

<sup>84</sup> È di Hagemann l'espressione, alla quale alludo nel testo. Vede nell'articolo conclusivo dello statuto cittadino «eine wichtige, folgeschwere Neuerung» (*Vielschichtiges Recht* cit., p. 36).

<sup>85</sup> Sul regime giuridico di queste terre Hagemann, *Vielschichtiges Recht* cit., pp. 37 sgg. Anche nella *Landesordnung* del 1757, come del resto in quelle precedenti del 1611 e del 1654, manca ogni e qualsiasi rinvio alla valenza sussidiaria del diritto comune. In mancanza di una regola scritta le controversie andavano perciò decise «nach bestem Verstand, Wissen und Gewissen». Così *ibidem*, pp. 46-47, 49-50, 72, 93, 121.

<sup>86</sup> Hagemann, *Vielschichtiges Recht* cit., pp. 17, 71-72; R. Garré, *Fra diritto romano e giustizia popolare. Il ruolo dell'attività giudiziaria nella vita e nell'opera di J.J. Bachofen (1815-1887)*, Frankfurt a.M. 1999, p. 111.

<sup>87</sup> Hagemann, *Vielschichtiges Recht* cit., pp. 87 sgg.

<sup>88</sup> Rinvio alla relativa bibliografia in *Vaterländisches Recht* cit., p. 188, nota 73.

gli orologi che si merita). Se non nascessero, a complicare le cose e a turbare l'idillio, dubbi, stavolta fondati, in punto all'*intensità* di questa transizione. Sono originati dal contesto istituzionale dell'attività giudicante, ossia dal fatto che nei tribunali cittadini sedevano normalmente giudici laici (ossia popolari), reclutati più in base all'onestà personale che a meriti intellettuali o competenze professionali. Erano di regola commercianti e artigiani, digiuni di specifiche conoscenze giuridiche<sup>89</sup>, al pari di quei procuratori (*Amtsleute*, *Fürsprecher*) assoldati dalla città, ai quali l'attore e il convenuto dovevano inevitabilmente ricorrere<sup>90</sup>. È vero che questa struttura dell'organo giudicante ha origini medievali, sia in punto alla netta distinzione fra presidente (del tribunale) e giudici (ai quali spettava il diritto esclusivo di decidere), sia quoad competenze professionali. Ma non è men vero che restò sostanzialmente invariata anche in epoca moderna<sup>91</sup>. È logico perciò supporre che il nuovo statuto cittadino l'abbia messa a dura prova<sup>92</sup>. Poiché con un improvviso colpo di spugna – come sembra indicato leggere il rinvio sussidiario al diritto comune – costringeva giudici e procuratori non solo a ricorrervi in caso di lacuna, ma anche (e quasi direi soprattutto) a tenerne conto già interpretando il diritto locale<sup>93</sup>. Accollava loro – così disponendo – un compito visibilmente sproporzionato, che non furono in grado di onorare alla lettera. Ignari della lingua come anche delle nozioni tecniche veicolate dal diritto classico, non ne poterono garantire una trasmissione intatta<sup>94</sup>. Si accontentarono perciò di meno, di una lettura *artigianale* del nuovo statuto, ossia dell'unica suggerita (o permessa) dalla loro cultura, abituata più a riflettere su cose concrete che a seguire i voli pindarici dei giuristi<sup>95</sup>. Fidandosi nel dubbio di quanto già conoscevano, ossia di quelle pratiche domestiche consegnate dal tempo, che persino l'articolo conclusivo dello statuto non aveva voluto (o potuto) passare sotto silenzio<sup>96</sup>. In altre parole: capitò che le attese suscitate

<sup>89</sup> Hagemann, *Vielschichtiges Recht* cit., pp. 36, 83, 98-99.

<sup>90</sup> *Ibidem*, p. 100. Il loro comportamento, massime il loro linguaggio sboccato, provocò spesso dure (ma finalmente inefficaci) reazioni dell'autorità politica. È vero che talvolta questa concessione alle parti la libertà di ricorrere ai servizi di un giurista esterno. Il cui intervento, spesso volto a svelare ai giudici laici gli arcani del diritto classico, fu ognora considerato quale corpo estraneo della procedura (*ibidem*, pp. 110-114).

<sup>91</sup> Hagemann, *Vielschichtiges Recht* cit., p. 98.

<sup>92</sup> *Ibidem*, p. 36.

<sup>93</sup> Massima già ricordata (*supra*, nota 49), elaborata dalla scienza giuridica medievale, che a Basilea fu (teoricamente) condivisa fino alla fine dell'Ancien Régime. Si veda Hagemann, *Vielschichtiges Recht* cit., pp. 84, 88, 91, ma già Bonifacius Amerbach cit., pp. 57-58 e Basilius Amerbach cit., pp. 70-72.

<sup>94</sup> Hagemann, *Vielschichtiges Recht* cit., p. 36 cita una perizia del 1732 che combatte l'abitudine degli avvocati di allegare fonti e autori, poiché provocherebbe il malumore dei giudici. Testo pubblicato sia in *Rechtsquellen von Basel. Stadt und Land*, a cura di J. Schnell, volume I, Basel 1856, N. 496, p. 942, che in E.R. Frey, *Die Quellen des Basler Stadtrechts, namentlich der Gerichtsordnung von 1719*, Basel 1830, pp. 171-172.

<sup>95</sup> Citano casi concreti Christ, *Stadtgerichtsordnung* cit., pp. 118-120; Caroni, *Entwicklungstendenzen* cit., p. 232; Caroni, *Vaterländisches Recht* cit., p. 189.

<sup>96</sup> Prima di dar via libera al diritto comune l'art. 620 ordinava al giudice di consultare ed eventualmente attenersi all'«altes Herkommen und Observantz» della città. Si veda in merito

dai concetti, ad esempio da quello di diritto comune (e della scienza che l'aveva elaborato) si scontrassero con la realtà, restia a recepirle e a corrisponderle; e che ne venissero logicamente ridimensionate. Ragione per cui si attestarono automaticamente su posizioni più moderate (se non proprio più modeste). Ciò spiega perché a dispetto di quanto sollecitava il nuovo statuto cittadino<sup>97</sup>, lo spazio concesso al diritto locale rimanesse tuttora intatto, quindi determinante: non solo quando i giudici popolari decidevano<sup>98</sup>, ma anche quando i membri della facoltà giuridica elaboravano consulti in vertenze cittadine<sup>99</sup>.

Non è dunque un caso – conviene concludere così – se anche Hans-Rudolf Hagemann, che da anni esplora con passione e prudenza la storia giuridica della sua città, si sia finalmente arreso davanti all'evidenza documentata dagli atti e abbia concluso la recentissima monografia dedicata proprio alla storia del diritto privato in epoca moderna sottolineando il ruolo prevalente assuntovi dalla *Billigkeit*, riconosciuta quale «Richtschnur für die gesamte zivile Rechtssprechung»<sup>100</sup>. Concetto emblematicamente sfuggente, refrattario alla precisione sottesa all'imbricarsi dei dogmi come all'intrecciarsi delle teorie, riassumeva procedure decisorie *altre*<sup>101</sup>, che l'Europa già conquistata dalla scienza giuridica e ora scossa dal messaggio illuministico osservava con meraviglia e (forse anche) disappunto. Preferite ad altre lusinghe, che la città renana dunque conosceva, mostravano che era possibile avventurarsi nel labirinto del diritto comune senza smarrirvisi, quindi senza ricorrere alla mediazione dell'uomo di legge per uscirne indenni<sup>102</sup>.

Hagemann, *Vielschichtiges Recht* cit., pp. 64 sgg.; Caroni, *Educazione giuridica* cit., pp. 1026-1027; Caroni, *Vaterländisches Recht* cit., pp. 188-189; Garré, *Bachofen* cit., pp. 109-110.

<sup>97</sup> Hagemann, *Vielschichtiges Recht* cit., pp. 67.

<sup>98</sup> *Ibidem*, p. 158, ove si sottolinea che, messi alle strette dalle irraggiungibili coordinate romantiche, i giudici ripiegavano su una interpretazione tradizionale del nuovo statuto, scostandosi da quanto la teoria loro suggeriva.

<sup>99</sup> Hagemann, *Vielschichtiges Recht* cit., pp. 74, 75, 78, 124.

<sup>100</sup> *Ibidem*, p. 258. A quella «Billigkeit» si riferisce l'autore, che simboleggiava una giustizia intuitiva – peraltro tipica della tradizione giuridica svizzera fino a Ottocento inoltrato – «alla quale la nostra mente di moderni è ormai disavvezza da secoli» (così Santarelli, *Recezione* cit., p. 59).

<sup>101</sup> Il che spiega sia l'intatta popolarità di procedure altrove contestate e poi rimosse (per esempio la pressione che i giudici esercitavano per costringere le parti a sottoscrivere transazioni più o meno amichevoli, si veda Hagemann, *Vielschichtiges Recht* cit., pp. 118-120), sia il netto rifiuto di motivare le sentenze, che ancora in pieno XIX secolo fu confermato per i giudicati di prima istanza (*ibidem*, pp. 23-24).

<sup>102</sup> Ernst Kramer ha recentemente attirato l'attenzione sugli anni basilesi di Ernst Rabel (1906-1910), che lo videro non solo titolare della cattedra di diritto romano e diritto privato svizzero, ma anche membro del Tribunale d'Appello del cantone di Basilea-Città, presieduto inizialmente da Andreas Heusler. In una conferenza tenuta durante il lungo soggiorno americano Rabel riasunse così l'attività del tribunale: «The new Swiss Civil Code of 1907 was not yet in force. Wieland and I held lectures to introduce the judges and lawyers of three cantons to the new Code. We had many federal and cantonal enactments. However, our court still maintained habits of former times, common law manners; we did not bother generally with much analyzing and construing of texts – the contrary of what we did in Germany – and we frequently followed in our decisions the dictates of our hearts more than learned doctrines. That an elegant motiva-



## 6. Qualche riflessione conclusiva

Rinuncio per il momento a occuparmi di altre situazioni e tento di trarre qualche insegnamento concreto dalle critiche ventilate finora.

6.1. Torno dapprima a evocare le drastiche conclusioni del saggio di Bühler. Non per infierire, ma per segnalare che azzerano, con un breve tratto di penna, differenze, scarti, peculiarità; che ipotizzano a tal modo un appiattimento totale del passato, di un passato che non sa più distinguere e per questo motivo rimescola a piacimento e allinea teorie, tempi e luoghi. Sia la radicalità che la discutibilità di queste “conclusioni” risultano con evidenza dalle mosse che vi preludono.

a) Vi è anzitutto l'aspetto *settoriale*. Bühler tien conto nel suo intervento esclusivamente di regole successorie. Era il suo diritto e credo che abbia scelto bene. Perché da sempre la trasmissione dei beni *causa mortis* fu al centro di conflitti di interessi, che né il diritto canonico, né quello profano potevano abbandonare a un tacito (ma chimerico) consenso fra possibili eredi. Di qui l'urgenza di una statuizione esplicita per imporre soluzioni altrimenti irraggiungibili. Il che spiega sia la folta documentazione normativa<sup>103</sup>, sia il frequente ricorso a soluzioni veicolate dal diritto canonico e/o comune. Ma proprio per questo motivo non è corretto generalizzare<sup>104</sup> ed estendere, più o meno tacitamente, a tutto il campo civilistico, quindi anche agli ambiti tradizionalmente retti dalla consuetudine, i risultati di un'analisi condotta esclusivamente su quello successorio.

b) Il secondo è quello *temporale*. Che dire di un autore – peraltro lui pure notoriamente versatile – che rincorre lungo i secoli *nomina*, proprio solo *nomina* (rispettivamente suoni), scavalca spavalidamente steccati e ignora contesti, senza tener conto della prudenza che suggeriscono, per sboccare poi trafelato in pieno Ottocento a celebrare l'epilogo del lungo *iter* recettivo<sup>105</sup>? In sostanza tre cose. *Anzitutto* che purtroppo non è più solo, da quando i neopandettisti – superate vecchie idiosincrasie – vedono nei codici monumenti di saggezza romanistica, rispettivamente l'approdo a lungo vagheggiato della recezione<sup>106</sup>. *Secondariamente* che le regole della tradizione romanistica inghiottite dal vortice codificatorio e qui inevitabilmente aggregate ad altre, furono spesso destinate a soddisfare nuove esigenze, il che ne modificò la valenza originaria. Considerarle tuttavia frutto di una intatta recezione mi

tion, in brilliant scholarship, can be found everytime when afterwards the written judgment is formulated is a truth I soon learned» (E.A. Kramer, *Ernst Rabel-Ein Lebensbild*, in «Basler Juristische Mitteilungen», 52 [2006], pp. 118-128, il passo citato a p. 120, nota 6). Si muovono sulla linea di questa esperienza anche le riflessioni di Garré, *Bachofen* cit., pp. 112-115, 192-196.

<sup>103</sup> Caroni, *Einflüsse* cit., pp. 11-12; Hagemann, *Vielschichtiges Recht* cit., p. 62.

<sup>104</sup> Bühler, *Methoden* cit., p. 59.

<sup>105</sup> *Ibidem*, pp. 53 sgg.

<sup>106</sup> Caroni, *Solitudine* cit., pp. 186 sgg.

pare perciò fuori luogo. Per non insistere *finalmente* sul significato concreto da attribuire a quelle (comunque rare) regole dei codici, che iterarono il rinvio sussidiario al diritto comune, violando apertamente quella demarcazione epocale fra i due sistemi delle fonti, che Calasso aveva ripetutamente tracciato con grande determinazione<sup>107</sup>. Pensare che l'abbiano fatto per recuperare terreno perduto, come sembra fare il nostro autore<sup>108</sup>, non è vietato ma, secondo me, poco plausibile<sup>109</sup>.

c) Resta, buon ultimo, l'aspetto *spaziale*. La prudenza suggeriva di tener conto del federalismo politico e del multiculturalismo della vecchia Confederazione. Consigliava, anche in tema di recezione, di distinguere fra città e campagna, fra territori germanofoni, francofoni e italo-foni, forse anche fra cantoni a democrazia diretta e altri retti da un'oligarchia più o meno patriziale. Anche qui era stato Savigny a precorrere i tempi: riferendosi ai paesi cisalpini, preferì infatti parlare di "Wiederbelebung" del diritto romano, piuttosto che di recezione<sup>110</sup>. Aveva così indicato una strada, che in molti poi imboccarono, appunto distinguendo<sup>111</sup>.

Bühler invece non si lascia irretire da "civetterie" regionali. Preferisce accomunare tutti i territori dell'antica Confederazione, tutti secondo lui ugualmente disponibili e pronti ad attingere a piene mani all'inesauribile *thesaurus* lessicale del diritto successorio classico. Ne esce un quadro uniforme e coerente, ma purtroppo solo immaginario<sup>112</sup>.

6.2. In un recente intervento il nostro autore ha precisato la portata delle sue deduzioni e si è accontentato di accostare l'evoluzione svizzera a quella tedesca: «Die damaligen Kantone bzw. Stände (haben) weitgehend die Rezeptionen aus dem Reich mitgemacht, sodass die Situation mit Deutschland weitgehend dieselbe war»<sup>113</sup>. Può essere utile riflettere sulla con-

<sup>107</sup> Calasso, *Storicità* cit., pp. 115-117, 193, 196-197; Calasso, *Introduzione al diritto comune*, Milano 1951, pp. 5, 125-126; F. Calasso, *Medio Evo del diritto*, I, *Le fonti*, Milano 1954, p. 454.

<sup>108</sup> Bühler, *Methoden* cit., pp. 55-56.

<sup>109</sup> Ho tentato di additare le cause concrete di un tale curioso *repêchage* in P. Caroni, *Codificare rinviando al diritto comune. Come leggere l'art. 5 del Codice civile ticinese del 1837*, in «Verbanus», 26 (2005), pp. 119-130.

<sup>110</sup> F.C. von Savigny, *System des heutigen Römischen Rechts*, I, Berlin 1840, p. 79.

<sup>111</sup> Si veda ad esempio Calasso, *Medio Evo* cit., pp. 617, 627; Calasso, *Storicità* cit., pp. 282, 289, 291; Wieacker, *Storia del diritto privato moderno*, I, *Presentazione* di U. Santarelli, pp. XIV-XV; Pahud de Mortanges, *Schweizerische Rechtsgeschichte* cit., pp. 138, 142. Preferiscono invece parlare di recezione anche nella Svizzera Italiana Huber, *Geschichte* cit., p. 123; Stutz, *Die Schweiz* cit., p. 105; Wesener, in «ZRG», Romanistische Abteilung, 124 (2007), p. 567; E. Genzmer, in «ZRG», Romanistische Abteilung, 67 (1950), p. 605.

<sup>112</sup> Non è fuori luogo ricordare, che proprio la diversità dell'impatto con il messaggio sapienziale sotteso al diritto romano-comune nelle tre regioni linguistiche spiega (almeno parzialmente) la mancanza di un rapporto conclusivo svizzero nell'ambito dell'iniziativa citata *supra*, nota 1. Chi scrive si affida per una volta ai ricordi personali e non ha dimenticato le accese discussioni degli anni Settanta del secolo scorso con i compianti maestri e colleghi Alexander Beck, Philippe Meylan e Ugo Nicolini, conclusesi purtroppo con un nulla di fatto.

<sup>113</sup> «Schweizerische Juristen-Zeitung», 102 (2006), p. 23.

sistenza di questa affermazione contrapponendola alle testimonianze (coeve) di due grandi giuristi svizzeri dell'Ottocento, ossia Friedrich Ludwig Keller e Johann Caspar Bluntschli. Allievi prediletti di Savigny, attivi dapprima a Zurigo, poi in grandi università tedesche, avviarono in gioventù quelle riforme istituzionali e legislative, che a lungo andare conferirono un'aura scientifica alla tradizionale prassi giuridica zurighese prima, federale poi<sup>114</sup>.

Cominciamo dal secondo. Inaugurò la carriera universitaria nella sua città natale insegnando diritto romano, non però come era costume professarlo nelle università tedesche, sebbene «nach Schweizer Art»<sup>115</sup>. Ossia preferendo alla conoscenza delle leggi imperiali quella degli scritti dei giuristi classici<sup>116</sup>. L'aveva indotto a questa scelta non solo l'esempio di Keller<sup>117</sup> ma anche (e forse anzitutto) il fatto che la Svizzera non avesse né recepito il diritto comune<sup>118</sup>, né di conseguenza riconosciuto il *Corpus iuris* quale fonte di diritto positivo<sup>119</sup>. Il paese si accontentò dunque di meno, di un influsso indiretto, esterno e superficiale. Di sole "parole" ed "espressioni", in realtà "ciarpame" di poco valore<sup>120</sup>, aggiustato alla buona e senza troppi riguardi per il modello originale. Se poi queste affermazioni non bastassero a documentare la singolarità della reazione svizzera all'avanzata dell'onda sapienziale, allora dovremmo riesumare gli allori che Bluntschli si meritò codificando il diritto privato del suo Cantone. Il *Privatrechtliches Gesetzbuch* (PBG), zurighese, entrato in vigore fra il 1854 e il 1856, ovunque riconosciuto quale opera magi-

<sup>114</sup> Fu Bluntschli a indicare in Keller «den ersten Begründer und Bildner einer wissenschaftlichen schweizerischen Jurisprudenz» (J.C. Bluntschli, *Erinnerung an Friedrich Ludwig Keller*, estratto dalla terza annata [1861] della «Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft», München 1861, p. 15). Di Keller si occupa la recentissima, splendida opera di T. Weibel, *Friedrich Ludwig Keller und das Obergericht des Kantons Zürich*, Zürich 2006, recensita da W. Ernst in «ZRG», Romanistische Abteilung, 125 (2008), pp. 688-695.

<sup>115</sup> J.C. Bluntschli, *Denkwürdiges aus meinem Leben*, I, Nördlingen 1884, p. 150.

<sup>116</sup> *Ibidem*, pp. 150-151.

<sup>117</sup> Bluntschli ha sempre riconosciuto i meriti di Keller, anche quando la lotta politica, che li vide in campi opposti, aveva distrutto l'iniziale armonia. Ricorda dunque come il maestro insegnasse diritto romano «nur mit erheblichen Modifikationen» e comunque non come se fosse «eine geltende Gesetzgebung»: così in *Erinnerung* cit., p. 5; Bluntschli, *Denkwürdiges* cit., I, p. 38; Bluntschli, *Die neueren Rechtsschulen der deutschen Juristen*, Zürich 1862<sup>3</sup>, p. 46.

<sup>118</sup> Bluntschli lo ribadì spesso: per esempio in «Beobachter der östlichen Schweiz», numero del 26 gennaio 1844; oppure in *Schweizerisches Obligationen- und Handelsrecht*, in «Zeitschrift für vergleichende Rechtswissenschaft», 2 (1880), pp. 337-358, specialmente 339. Vi accennano esplicitamente H. Oppikofer, *J.C. Bluntschlis Theorie und die einheimische Rechtsentwicklung*, in «ZSR», 60 (1941), pp. 361-382, specialmente 365-366, 370-371; Lautner, *Bedeutung* cit., pp. 38-45.

<sup>119</sup> *Denkwürdiges* cit. I, pp. 37, 151, 152, 200; Bluntschli, in «Monatschronik der Zürcherischen Rechtspflege», 6 (1835), pp. 180 (proprio in ciò si coglie, afferma qui Bluntschli, «ein durchgreifender Unterschied zwischen den Rechten der deutschen Schweiz und denen Deutschlands»). Quanto poi all'opportunità di considerare tuttavia diritto vigente le costituzioni imperiali, Bluntschli non misura le parole: la considera «von jeher eine Thorheit» (così in *Der Bayerische und der sächsische Entwurf eines bürgerlichen Gesetzbuches*, in «Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft», 3 [1861], pp. 421-446, la citazione a p. 429).

<sup>120</sup> Nel testo originale «Worten», «Ausdrücke», «Wortkram»: «Monatschronik der Zürcherischen Rechtspflege», 6 (1835), p. 181.

strale<sup>121</sup>, nacque infatti sotto lo sguardo occhiuto di Savigny. Non lo ritenne blasfemo e non lo folgorò, come si era abituato a fare dal 1814 in poi. Lo vide persino di buon occhio. Ma perché mai? È presto detto: perché a differenza di tutti gli altri codici pensati, proposti e realizzati in paesi finora retti dal diritto comune, quello di Zurigo né intendeva contestare, né aspirava a sostituirsi al primato di questo diritto; non intendeva cioè opporsi a una tradizione scientifica, già perché questa *in realtà non esisteva*. Mirava piuttosto a *instaurarla*, questa tradizione, facendo ovviamente tesoro di tutte quelle verità, che la scuola storica aveva nel frattempo formulate e diffuse.

Quanto poi a Keller – l'unico romanista che Savigny nel 1846 ritenne degno di aspirare alla "sua" cattedra berlinese<sup>122</sup> – la testimonianza è ancora più solare. Quella sottesa al suo insegnamento zurighese<sup>123</sup>, come quella offerta da una rara confidenza, nascosta in una pagina del manuale delle Pandette, pubblicato postumo nel 1861<sup>124</sup>. Dopo aver incitato i destinatari del manuale, quindi anzitutto i suoi studenti berlinesi, a non lasciarsi schiacciare dalla mole e dal peso della tradizione, delle fonti e della dottrina; dopo averli esortati a dominare la materia, osservando come le regole astratte si intrecciano con le esigenze concrete della vita, in un continuo alternarsi di posizioni, soggiunte testualmente, rievocando le esperienze vissute in patria:

Ich sage das nicht, weil ich es von Anderen gehört oder es mir selbst a priori construiert hätte. Nein, ich hatte lange Jahre die Gelegenheit, davon die praktische Probe zu machen. Meine früheren Verhältnisse brachten es mit sich, dass ich theoretisch und praktisch mit einem Rechtssystem zu thun hatte, welches der Gesetze und der Literatur fast gänzlich entbehrte. Die Beobachtung des Lebens und des Verkehrs der Menschen war da beinahe meine einzige Quelle, und ohne diese hätte ich wahrlich stillschweigende Vorlesungen halten müssen<sup>125</sup>.

6.3. Chi legga il testo del nostro autore e rifletta sulle tesi che formula, prima o poi si interroga: per quale motivo da tempo<sup>126</sup>, a intervalli più o meno regolari, si indaga sul destino del diritto romano in Svizzera, massime su quello della scienza che se ne occupò? C'è una molla che segretamente preme, uno stimolo che periodicamente spinge gli storici a occuparsene? Come altrimenti spiegare la ricorrente attrattività del tema? Cerco anch'io una risposta a questo interrogativo, che non solo metta un punto finale alla lettura critica del saggio di Bühler, ma apra altresì una prospettiva a future ricerche.

<sup>121</sup> Basti a documentarlo il rinvio alle riflessioni di Liver, *Allgemeine Einleitung* cit., pp. 24-27.

<sup>122</sup> L. Jelowik, *Friedrich Ludwig Keller: seine Berufung nach Halle und Berlin im Spiegel des Briefwechsels berühmter Zeitgenossen*, in «ZSR», 111 (1992), I, pp. 441-457, in particolare p. 455.

<sup>123</sup> Si veda *supra*, nota 117.

<sup>124</sup> Friedrich Ludwig von Keller, *Pandekten. Vorlesungen*, aus dem Nachlasse des Verfassers herausgegeben von Emil Friedberg, Leipzig 1861.

<sup>125</sup> *Ibidem*, Einleitung, p. XXIV (corsivo mio).

<sup>126</sup> La prima opera dedicata specificamente a questo tema è la rassegna di E.R. Frey, citata *supra*, nota 94.

A me pare dunque che le ricerche germogliate un po' ovunque sul continente in sequela all'ambizioso programma IRMAE (*Ius Romanum Medii Aevi*) – meritorie e di regola non solo riassuntive – abbiano purtroppo provocato anche qualche ricaduta negativa. Una riguarda la Svizzera. Dopo aver infatti scoperto che l'evoluzione medievale, quella che chiamiamo la pre- o protorecezione, fu più intensa di quanto creduto finora<sup>127</sup>, anche queste nuove ricerche dovettero purtroppo confermare che in epoca moderna la parabola si era incrinata, non aveva avuto quel seguito vincente, che gli storici magari auspicavano. Quanto davvero successe dispiacque, fu dunque da loro descritto facendo capo a quella terminologia negativa, che ho già ricordata: ristagno, declino, tramonto<sup>128</sup>. Questi sembrando i tratti caratteristici di un paese, che aveva sprecato l'occasione più unica che rara di associarsi a un itinerario promettente, perché finalmente civilizzatore. Di qui l'isolamento imbarazzante e mal sopportato, poiché vissuto quale costante mancanza di qualcosa di essenziale. Che gli altri, i paesi contigui, avevano e che a noi purtroppo faceva difetto. Qualcuno reagì, è vero. Fu così documentata l'attività di autori e traduttori, la circolazione di opere, l'episodica presenza di giuristi nelle amministrazioni cittadine, lo sporadico intervento di giudici togati, avvocati e notai. Poca cosa, magari; ma comunque un segno di vita<sup>129</sup>.

Alla radice di questa situazione, che il nostro autore ha tentato di rad-drizzare; quindi anche a monte dei malumori, che tuttora provoca, come dei complessi di inferiorità, che spesso l'accompagnano, stanno secondo me attese improvvidamente concrete: quelle nutrite da chi si era gettato a capofitto nella ricerca, convinto com'era di poter tosto documentare una vivace presenza della scienza giuridica *anche* nella vita del nostro paese. Attese che, come spesso capita<sup>130</sup>, condizionarono forse oltre misura le ricerche; le orientarono nella direzione reclamata dall'esito auspicato, a esclusione di tutto quanto, pur interferendo, non poteva, non doveva "servire". Fallito ugualmente l'affondo per mancanza di riscontro nella realtà, la delusione fu grande, lo scorno pure. Spiegano, dicevo, gli accenti negativi usati per caratterizzare l'isolamento del paese.

Vista la piega assunta dalle cose e per trovare una via d'uscita a questo spiacevole stallo, può essere utile rileggere quella splendida pagina autobiografica, nella quale Bluntschli descrisse la sua conversione, ossia come dopo aver inizialmente insegnato diritto romano all'università si sentisse lentamente attirato dal diritto *locale*, nel quale si era già imbattuto durante l'a-

<sup>127</sup> Si veda *supra*, nota 11.

<sup>128</sup> Si veda *supra*, note 13 e 14.

<sup>129</sup> A dimostrazione del fatto che il ristagno, nemmeno in punto al destino della scienza giuridica, non fu totale. Si veda il consuntivo equilibrato e condivisibile di C. Soliva, *Das eidgenössische Stadt- und Landrecht des Zürcher Bürgermeisters Johann Jakob Leu. Ein Beitrag zur Geschichte der Rechtswissenschaft in der Schweiz des 18. Jahrhunderts*, Wiesbaden 1969, pp. 180-183; Caroni, *Vaterländisches Recht* cit., p. 197.

<sup>130</sup> Caroni, *Solitudine* cit., pp. 76-77 *et passim*.

lunnato giudiziario. Era il diritto che bene o male disciplinava, ancora nella prima metà dell'Ottocento, la vita della città come del territorio circostante. Non concedeva spazio al diritto comune, nemmeno lo tollerava quale comprimario. Ma non era per questo spurio o figlio dell'ignoranza. Rispecchiava piuttosto certezze maturate nel tempo e teneva conto di nuove sollecitazioni: magari artigianalmente, ma con grande efficacia<sup>131</sup>. La sua alterità aveva, ai tempi di Bluntschli, un nome, che nel frattempo non è più di moda: era diritto *tedesco* (o *germanico*). Oggi preferiamo parlare del diritto di una società repubblicana, che per secoli in esso, nella sua gestione comunitaria e nel suo aggiornamento costante ma pragmatico, bene o male si è rispecchiata. Quindi non era sofisticato, ma popolare; nemmeno era diventato appannaggio di un ceto o di un gruppo professionale, ma era rimasto retaggio della coscienza comune. Detto in altre parole: documentò per secoli che, date concrete premesse di natura costituzionale, una vita del diritto al di fuori dell'alveo scavato dalla scienza giuridica, priva dunque di un involucro sapienziale, era pensabile, possibile, persino ragionevole e appropriata. Una vita né inferiore a quella gestita da giusperiti, né disprezzabile, ma di uguale dignità. Meritevole almeno di quel rispetto, con il quale persino Savigny ne aveva parlato<sup>132</sup>.

Per tutti questi motivi mi chiedo, concludendo il mio ragionamento: se in epoca moderna *questa* fu la natura del nostro diritto privato, perché non prenderla sul serio, non studiarla, facendone risaltare la sua originalità, la sua alterità? Perché spesso, invece di prenderla di petto, quasi ce ne vergogniamo, la soffochiamo, quando non tentiamo di "nobilitarla" andando alla ricerca di (improbabili o pretestuosi) correttivi, ovviamente romanistici? Eugen Huber e Ulrich Stutz, le icone citate inizialmente, si riconoscevano ancora nella fortunata metafora della "continuità germanistica"<sup>133</sup>. Senza

<sup>131</sup> Bluntschli, *Denkwürdiges* cit., I, p. 151: «Aber allmählich nahmen meine Studien eine andere Richtung, die mich von dem römischen Rechte weg und der Bearbeitung des nationaldeutschen Rechts zuführte. Die nähere Bekanntschaft mit dem Zürcherischen Rechte, welche ich in der gerichtlichen Praxis gewonnen hatte, überzeugte mich, dass dasselbe nicht aus dem römischen, sondern in allen seinen Grundbegriffen nur aus dem deutschen Rechte zu erklären sei. In der Schweiz war das alte deutsche Recht dem neuen Bedürfnisse gemäss volkstümlich fortgebildet und diese Entwicklung war nicht, wie in Deutschland, durch die Reception des römischen Rechts durchbrochen und gestört worden. Die schweizerischen Gerichtshöfe waren niemals von bloss gelehrten, auf den Universitäten zum Gehorsam gegen das kaiserlich römische Gesetzbuch erzogenen Berufsrichtern besetzt worden. Es blieben in den Gerichten auch unstudierte Männer aus dem Volk sitzen, und sie sprachen und entschieden mit bei dem Urteil. Es konnte daher nie die lateinische Rechts- und Gelehrtensprache die gemeinverständliche deutsche Volkssprache verdrängen, wie das in Deutschland allerdings geschehen ist».

<sup>132</sup> Vi aveva accennato a due riprese, per descrivere una realtà poi superata dall'emergere e dall'affermarsi della scienza giuridica. Anzitutto nel *Beruf* cit., pp. 11-12, più tardi in conclusione della rassegna *Stimmen für und wider neue Gesetzbücher*, in «Zeitschrift für geschichtliche Rechtswissenschaft», 3 (1817), pp. 1-52, specialmente p. 45.

<sup>133</sup> Si veda anzitutto *supra*, nota 6. Fra gli autori, che videro nel Codice Civile Svizzero (CCS) del 1907 un codice di stampo germanistico va ricordato anzitutto A. Egger, per esempio in *Das schweizerische Zivilgesetzbuch vom 10. Dezember 1907*, in «Archiv für Rechts- und Wirtschaftsphilosophie mit bes. Berücksichtigung der Gesetzgebungsfragen», 2 (1908-1909), pp. 111-121; oppure in *Schweizerische Rechtssprechung und Rechtswissenschaft*,

complessi, persino con piacere. Oggi, è vero, preferiamo magari metafore meno ambigue. Ma il tema, sul quale riflettere, è rimasto invariato: è quello del diritto privato di un paese che a lungo fece meno della mediazione sapienziale, senza venirne per questo penalizzato. Urge secondo me conoscerlo meglio, seguirne l'evoluzione, descriverne l'intrecciarsi con l'emergere di nuove attese, appurare come, in pieno Ottocento, confluì nei codici senza venirne snaturato, ma assumendo ugualmente nuove valenze. *Questi* sono secondo me i quesiti, sui quali siamo chiamati a riflettere. Senza rincorrere fantasmi e senza rimpiangere appuntamenti in apparenza mancati; ma anche senza sconfessare il contesto repubblicano, che li incorniciò durevolmente.

Rektorsreden 1912 und 1913, Berlin 1913, p. 31. Sul declino della visione germanistica, al quale si accenna marginalmente nel testo, si veda ora F.L. Schäfer, *Juristische Germanistik. Eine Geschichte der Wissenschaft vom einheimischen Privatrecht*, Frankfurt a.M. 2008; L. Waelkens, *Droit germanique: La fin d'un mythe?*, in «Revue historique de droit français et étranger», 87 (2009), pp. 415-426.





# **Justice épiscopale, justice communale. Délits de bourgeois et censures ecclésiastiques à Valenciennes (Hainaut) en 1424-1430**

par Jean-Marie Cauchies

Quelles qu'en soient la portée, la durée, les conséquences effectives, l'application des censures ecclésiastiques que sont l'interdit et l'excommunication suscitent toujours l'émoi dans la société médiévale au sein d'une communauté locale, urbaine ou villageoise. Qu'il s'agisse là de sanctions destinées à amener des coupables au repentir plutôt que visant une expiation ne change rien à leurs effets spirituels, psychologiques et sociaux. Que l'absolution soit promise aux contrevenants, sous certaines conditions à satisfaire, au bout du chemin, n'empêche pas que, pour un temps plus ou moins long, une population dans son ensemble souffre durement de l'interruption des services religieux ou de la dispensation des sacrements. Il nous est possible de définir assez clairement et de distinguer les unes des autres les mesures fulminées par l'autorité ecclésiastique. On rappellera que l'interdit, sans exclure ses victimes de la communauté des fidèles, peut être dit personnel ou local, suivant qu'il affecte un ou plusieurs individus, d'une part, ou un espace, village, bourg, paroisse, ville tout entière, d'autre part. Ceux sur lesquels il s'abat peuvent alors être momentanément privés de célébrations d'offices divins, de sacrements, de sépulture en terre chrétienne, donc des moyens de salut. On parle alors du « cés » ou *cessus*, *cessatio (a divinis)*, *cessus vel interdictum*. L'excommunication est en soi plus grave encore puisqu'elle entraîne, purement et simplement, rupture au regard de la communion de l'Église, marginalisation, plutôt, qu'exclusion pure et simple<sup>1</sup>. Cela étant dit, il n'est pas certain que dans l'esprit des personnes et des collectivités frappées par les sanctions canoniques, la distinction à introduire entre celles-ci soit toujours très limpide...

Lorsqu'une mesure de censure est justifiée par un conflit de juridiction entre Église et autorité communale, fût-ce autour d'un incident mineur et

<sup>1</sup> La nuance est clairement formulée par E. Vodola, *Excommunication in the Middle Ages*, Berkeley, Los Angeles et Londres, 1986, p. 47 : « Indeed, it was the *marginal* status of excommunication that made them dangerous : they were *relegated* to the borders but *remained* a part of the whole » – c'est nous qui soulignons.

isolé ou d'actes répétés jugés attentatoires au personnel ou aux compétences ecclésiastiques, un interdit local frappant l'espace communal en tout ou en partie va souvent de pair avec l'excommunication des membres du magistrat, tenus pour responsables des motifs mêmes de l'interdit. Les sanctions envisagées ici interviennent donc au premier chef dans les conflits répétés surgissant entre justices des villes et des évêques, non sans qu'y interfère fréquemment un troisième acteur, lui aussi détenteur de pouvoirs judiciaires, à savoir le seigneur d'une ville, roi, prince, sire. Un souci légitime de protéger ses féaux sujets ou des intérêts politiques et juridiques sont de bonnes raisons de l'y mouvoir<sup>2</sup>.

On dispose pour Valenciennes, la ville la plus importante du comté de Hainaut à la fin du moyen âge, d'un dossier peu ordinaire<sup>3</sup>. Les années qu'il concerne semblent marquées dans ce pays par des relations particulièrement tumultueuses entre pouvoirs laïcs et ecclésiastiques. Une excommunication fulminée le 4 mars 1430 (n. st.) par l'official de l'évêque de Cambrai, ordinaire du lieu, contre les édiles de Valenciennes et leur personnel, en marquera, dans les limites de la documentation disponible, le point d'orgue. En voici les pièces.

1<sup>o</sup>. Un rouleau de papier, sans date, émanant du promoteur de la cour épiscopale de Cambrai, contenant un mémoire en dix-huit points, intitulé : « Che sont les articles lesquels li promottes de le court de Cambray donne et fait contre Valenchiennes et en le ville de Valenchiennes en le partie ditte diocese de Cambrai<sup>4</sup> perpetréz avoecq protestation de faire proefve s'il sont deniiés et en mieux refourmer »<sup>5</sup>.

2<sup>o</sup>. Un autre rouleau de papier, aussi sans date, produit par le magistrat (la « loi »)<sup>6</sup> de Valenciennes aux fins de réfuter point par point les griefs du promoteur : « Responces

<sup>2</sup> Cet article s'insère dans des cadres chronologique, géographique et politique au sujet desquels on se référera à de précédents travaux du soussigné : d'une part, un chapitre entier consacré aux conflits entre juridictions laïques et ecclésiastiques dans J.-M. Cauchies, *La législation princière pour le comté de Hainaut. Ducs de Bourgogne et premiers Habsbourg (1427-1506)*, Bruxelles 1982 (Publications des Facultés universitaires Saint-Louis, 24), pp. 521-544 ; d'autre part, un article pourvu des indications bibliographiques complémentaires nécessaires : J.-M. Cauchies, « Et qu'il y procedoient soumierement par voye de cés et d'escumenication... » : menaces et pratiques d'interdit et d'excommunication dans les villes du Hainaut au XV<sup>e</sup> siècle, dans *La ville et l'Église du XIII<sup>e</sup> siècle à la veille du Concile de Trente. Regards croisés entre comté de Bourgogne et autres principautés*. Actes du colloque des 18 et 19 novembre 2005, éd. J. Theurot et N. Brocard, Besançon 2008 (Annales littéraires de l'Université de Franche-Comté, 825 - Série « Historiques », 30), pp. 65-74. Un autre article et un livre récents se sont aussi révélés particulièrement utiles pour notre propos : M. De Smet et P. Trio, *De verhouding tussen Kerk en stad in de Nederlanden in de late Middeleeuwen, onderzocht aan de hand van het interdict*, dans « Jaarboek voor middeleeuwse geschiedenis », 5 (2002), pp. 247-274 ; V. Beaulande, *Le malheur d'être exclu ? Excommunication, réconciliation et société à la fin du Moyen Âge*, Paris 2006 (Université Paris I Panthéon-Sorbonne. Histoire ancienne et médiévale, 84).

<sup>3</sup> Le principal ouvrage de référence pour l'histoire de la ville reste *l'Histoire de Valenciennes*, dir. H. Platelle, Lille 1982 (Histoire des villes du Nord/Pas-de-Calais, 3), en particulier les trois chapitres consacrés, pp. 49-95, à la période des XIV<sup>e</sup>-XV<sup>e</sup> siècles.

<sup>4</sup> La partie la plus vaste et la plus peuplée de la ville, sur la rive droite de l'Escaut, relève alors du diocèse de Cambrai, l'autre, rive gauche, du diocèse d'Arras.

<sup>5</sup> Lille, Archives départementales du Nord (cité : ADN), B 1205/15580<sup>2</sup>.

<sup>6</sup> Le magistrat communal valenciennois, dit aussi « loi de la ville », détenteur du pouvoir urbain, se compose à l'époque d'un prévôt et de douze échevins ou jurés, à la fois administrateurs et juges, dont la charge est annuelle (renouvellement à la mi-mai) ; c'est en principe au moment où

u claretéz donnees a reverends peres en Dieu monseigneur de Tournay et monseigneur d'Arras par les officiers de le loi de Valenchiennes, cascuns de son temps et saison et ces temps et saisons pour desquierque a le ville et bonnes gens sur u contre les articles des impositions dou promoteur de le court de Cambrai ». Les faits litigieux sont ici, pour la plus grande satisfaction de l'historien, regroupés chronologiquement, année par année (1424-1428). La conclusion du mémoire est sans ambiguïté : « Et ensi on a esté et est adiez contrariés, sci qu'il samble, sans title u cause vraie »<sup>7</sup>. Ce mémoire a donc été communiqué à deux prélats, les évêques de Tournai et d'Arras, à savoir Jean de Thoisy et Hugues de Cayeu, conseillers du duc de Bourgogne et à ce moment « mambour », c'est-à-dire régent et gouverneur, du comté de Hainaut, Philippe le Bon<sup>8</sup>.

3°. Un troisième rouleau de papier, derechef sans date, proposant la réplique du promoteur de Cambrai aux réponses fournies par la partie adverse à son propre mémoire, sur « leurz grans et oultrageux excés et delis par eux commis et perpetrés contre la jurisdiction et liberté de l'église ». On retrouve ici encore les dix-huit points du premier document, dans le même ordre, avec pour chacun d'eux examen et réfutation, article par article, des arguments valenchiennois, autour des faits précis pour lesquels « pre-vost, jurés et eschevins de Vallenciennes et tous aultres leurz aydans, confortans, conseillans et favorisans sont excommunié et telz doivent estre declarés et denunciéz tant de droit comme de l'auctorité dez canoniques sanxions »<sup>9</sup>.

4°. Une copie sur papier, collationnée à l'original, de l'acte par lequel l'official de Cambrai prononce la sentence d'excommunication à l'adresse des « coupables », prévôt, jurés, échevins de Valenciennes et tous leurs suppôts (*clerici, scriptores, consules, proconsules*), tenus collectivement pour *fautores*, et ce « contumaciis excessisque, criminibus et delictis et notoriis impedimentis » survenus. Il est daté de Cambrai, du samedi suivant le jour des Cendres en mars 1429 (a. st.), soit le 4 mars 1430 (n. st.). Au dos de cette copie figure un texte raturé, aux allures de minute, énumérant quelques prises de position et arguments de la ville relatifs aux dix-huit points évoqués<sup>10</sup>.

5°. Un document sur papier, sans date ni marque d'authentification, portant au dos la mention suivante : « Les cas principaulx pour lesquelz le cés a esté mis a Valenchiennes en l'an XVIII ». Sept points litigieux seulement y sont brièvement évoqués, sans guère apporter d'éléments nouveaux en complément des autres pièces du dossier<sup>11</sup>.

Les sources ainsi rassemblées permettent de jalonner les étapes du conflit mais aussi de confronter des versions distinctes des mêmes faits. Faute de données supplémentaires, il n'est pas possible de connaître les résultats immédiats d'éventuelles interventions de tiers tenus informés, soit les deux

ils jugent au pénal, sous la présidence du prévôt, que les échevins, appelés ainsi au civil, sont dénommés jurés. Pour ce qui concerne les institutions valenchiennes, voir J.-M. Cauchies, *Valenciennes (moyen âge)*, dans *Les institutions publiques régionales et locales en Hainaut et Tournai/Tournais sous l'Ancien Régime*, coord. F. Mariage, Bruxelles 2009 (Archives générales du Royaume. Miscellanea archivistica. Studia, 119), pp. 271-280.

<sup>7</sup> ADN, B 1204/15490. Analyse : *Cartulaire des comtes de Hainaut, de l'avènement de Guillaume II à la mort de Jacqueline de Bavière (1337-1436)*, éd. L. Devillers, V, Bruxelles 1892 (Commission royale d'histoire. In-quarto), p. 61 (sous une cote périmée).

<sup>8</sup> Si Hugues de Cayeu (évêque en 1426, † 1439) semble être demeuré dans l'entourage ducal un personnage de seconde zone, Jean de Thoisy (évêque en 1410, † 1433) devait exercer successivement les fonctions de chancelier (de 1419 à 1422) puis de chef du conseil de Philippe le Bon.

<sup>9</sup> ADN, B 1205/15580.

<sup>10</sup> ADN, B 1205/15569. Analyse : Devillers, *Cartulaire* cit., V, p. 105 (sous une cote périmée). Le style utilisé à Cambrai pour la datation des actes est celui de Pâques.

<sup>11</sup> ADN, B1205/15580<sup>3</sup>. L'année 1428 est la dernière durant laquelle se sont déroulés des faits rapportés.

ecclésiastiques de haut rang (voir 2<sup>o</sup>) proches du prince du pays et « seigneur » de la ville. On n'en sait pas davantage à propos de lettres, d'argumentaires échangés, si ce n'est, sans guère de lumières, de l'apaisement inévitablement recherché<sup>12</sup>. Même si elles demeurent relativement statiques et balisent des moments plutôt qu'un déroulement, les pièces exploitées plongent leur lecteur, au-delà de débats juridictionnels, dans des épisodes hauts en couleurs de la vie d'une cité médiévale.

Au nombre des motifs de friction révélés dans les textes, le refus ou le défaut de livraison d'un délinquant, clerc ou laïc, entre les mains de la justice épiscopale tient la première place, avec sept cas distincts<sup>13</sup>. Deux prêtres accusés d'avoir agressé un héraut d'armes du duc de Brabant<sup>14</sup> n'ont été ainsi livrés qu'après exposition ignominieuse sur une charrette et jets de pierre de la populace, au lieu de l'être sans retard et sans outrages. Le meurtrier d'un religieux de Tournai a été poursuivi et ses biens saisis et mis sous séquestre au profit de l'ordinaire, sans que la ville en retienne rien, mais il s'est enfui, ce que conteste le promoteur, qui en dénonce la présence persistante à Valenciennes, en toute liberté. Si un laïc bigame n'a pas été livré, c'est parce qu'il n'a été ni arrêté pour ce motif – mais bien pour vol – ni réclamé par l'officialité – sans quoi on y eût donné suite. Cinq « hérétiques » n'ayant pas été confiés à sa cour, l'évêque de Cambrai a dû effectuer lui-même un déplacement à Valenciennes, à ses frais ; justice fut alors rendue et les coupables exécutés. Un prêtre inculpé pour vol aurait bien été emprisonné et condamné à une amende mais ensuite relâché, sans transfert entre les mains du doyen de chrétienté. Un bourgeois incestueux, saisi au corps par la justice communale à la requête de la justice épiscopale, a été tout bonnement relâché, lui aussi. Enfin, un prêtre mis en prison pour avoir agressé un notable n'a pas été livré conformément aux usages en vigueur.

Plusieurs articles nourriciers du conflit font état de matières dont la connaissance devait être alors très controversée. Elles allaient d'ailleurs occuper une place en vue dans les négociations et la législation princière qui émailleront le deuxième quart du XV<sup>e</sup> siècle en Hainaut<sup>15</sup>. Le promoteur conteste à la ville toute compétence sur des biens meubles de prêtres décédés saisis pour acquitter leurs dettes et satisfaire leurs créanciers. La partie adverse soutient le contraire : elle a le devoir de protéger tout créancier laïc, quel que soit le débiteur, et de le garder de tout procès long et dispendieux

<sup>12</sup> Voir note 37 *infra*.

<sup>13</sup> On en trouve une mention explicite dans les statuts synodaux de l'époque : *Statuta antiquissima dioecesis Cameracensis*, éd. E.H.J. Reusens, Louvain 1903 (Analectes pour servir à l'histoire ecclésiastique de la Belgique, II<sup>e</sup> section : Série des cartulaires et des documents étendus, 6 – réimp. Bruxelles 1997 : Archives générales du Royaume, Reprints, 85), p. 47.

<sup>14</sup> Il s'agit de Jean IV (1415-1427) : voir *infra*.

<sup>15</sup> Une ordonnance de 1448 réservera radicalement aux seuls tribunaux de la juridiction temporelle en Hainaut la connaissance des questions de dettes et de testaments, tandis qu'une autre de 1449, notifiant les dispositions d'un concordat devenu nécessaire, en partagera l'attribution entre les tribunaux des deux justices : Cauchies, *Législation princière* cit., pp. 537, 540.

pour, tout compte fait, de modiques sommes. A Cambrai, on tient pour acquis que des biens meubles doivent nécessairement suivre le statut de leur possesseur. En ce qui concerne des testaments de prêtres, l'autorité communale conteste à l'épiscopale sa prétendue compétence exclusive pour tous les actes du genre et met en exergue le fait que sont en cause des instruments résultant d'œuvres de loi, produits de la juridiction dite gracieuse des échevins.

La cour cambrésienne supporte mal que des gens d'Eglise fassent l'objet de mesures pénales à l'initiative des prévôt, jurés et échevins : amendes, emprisonnements. Jamais pourtant, proteste la « loi », amende n'est infligée à pareille personne ! Si un chanoine de la ville proche de Condé a bien été cité à comparaître pour avoir blessé un bourgeois et s'est vu sanctionner financièrement sous peine de bannissement, il s'en est acquitté et n'a pas fait valoir une condition de prêtre que d'ailleurs on lui conteste à Valenciennes. Un chapelain de l'église Saint-Géry<sup>16</sup> a pour sa part été mis en prison... pour le protéger d'une vindicte populaire – *dixit* la ville – mais – *dixit* le promoteur – on a refusé de le libérer sur les instances du doyen de chrétienté et on l'a frappé d'une lourde amende sous un prétexte fallacieux. Dans le tout premier cas répertorié dans les mémoires successifs, il est question de deux porteurs de mandements de la cour épiscopale, saisis au corps pour être contraints de renoncer à leur démarche de citation, en l'occurrence à l'adresse d'un boucher de Valenciennes<sup>17</sup>...

À trois reprises, interdit et/ou excommunication sont évoqués autour d'injures, coups et blessures infligés à des ecclésiastiques. Les violences à l'égard de clercs comptent au nombre des causes les plus productives de censures canoniques<sup>18</sup>. On a déjà évoqué le cas de deux prêtres violents placés sur un véhicule et « lapidés » par des habitants de la ville, au point de faire couler le sang : les édiles reconnaissent avoir déjà agi ainsi par le passé pour des délinquants, fussent-ils gens d'Eglise, mais nient tout consentement au jet de pierres, s'offrant encore à sanctionner cet acte collectif si plainte est déposée ; en ayant protégé en outre de la foule les concubines des deux hommes et livré ceux-ci, avec retard certes, aux bons soins de l'ordinaire, le magistrat estime bien avoir agi davantage en leur faveur qu'à leur préjudice ! Dans un autre cas, les faits eux-mêmes sont contestés puisque, si le promoteur accuse un laïc d'une agression au couteau contre deux prêtres, la partie adverse réfute toute

<sup>16</sup> A l'origine paroisse unique de la rive droite, cambrésienne.

<sup>17</sup> Les deux hommes ont toutefois échappé à la mésaventure survenue à Liège à un prêtre forcé d'ingurgiter des morceaux d'un document épiscopal dont il était porteur... : De Smet et Trio, *Verhouding tussen Kerk en stad* cit., p. 261. L'agression (*violenter*) contre des porteurs de lettres d'une cour ecclésiastique est un motif de censures (« omnino cessetur a divinis ») mis en évidence dans les statuts synodaux : *Les statuts synodaux français du XIII<sup>e</sup> siècle*, IV : *Les statuts synodaux de l'ancienne province de Reims (Cambrai, Arras, Noyon, Soissons et Tournai)*, éd. J. Avril, Paris 1995 (Collection de documents inédits sur l'histoire de France. Section d'histoire médiévale et de philologie. Série in-8°, 23), pp. 80 (1260), 122-123 (1287-88) ; *Statuta antiquissima* cit., p. 45 (XV<sup>e</sup> siècle).

<sup>18</sup> Voir Beaulande, *Le malheur d'être exclu* cit., pp. 89 sq.

blessure de ce genre et impute au contraire à l'un des prêtres en présence de l'autre, tous deux ayant été injuriés verbalement il est vrai, des coups de bâton assénés au laïc. Enfin, le prêtre tournaisien frappé à mort dans une taverne en était-il bien un ? Sa renommée, son comportement indigne, quoi qu'il en soit, ne plaident pas pour lui : diffamation, s'exclamera-t-on à l'officialité !

On sait par ailleurs que nombre d'interdits ont pu être justifiés par une violation du droit d'asile<sup>19</sup>. Ici toutefois, il n'en est fait état que dans un seul cas. L'affaire, il est vrai, paraît rocambolesque et mérite que l'on s'y attarde. Après l'avoir séquestrée et rackettée, huit mauvais garçons tentent d'emmener avec eux une jeune fille, laquelle parvient à prendre la fuite et à se réfugier dans une église pendant un office. Ses poursuivants s'efforçant de l'en faire sortir, un attroupement se forme et on recourt à la force publique. À leur tour en fuite, sept des agresseurs sont arrêtés en ville, le huitième, selon le promoteur, ayant été indûment – droit d'asile oblige – appréhendé dans le cimetière voisin de l'église. Le magistrat conteste la réalité de ce dernier fait mais ne manque pas de souligner que cela n'eût pas été mal agir, vu la gravité du cas : « car le delit aroit estet et fu sacrilege et en enffraindant le juridiction del eglise et tiere sainte ne puet ne doit tel pekiet u enormité quelquement afrancquir ». Une justice exemplaire n'est-elle pas avant toute chose nécessaire ?

À deux reprises, le mot terrible d'« hérésie » apparaît dans les documents produits. On a déjà évoqué plus haut les cinq condamnés pour lesquels l'évêque en personne s'est déplacé à Valenciennes. Il est un autre cas, individuel celui-là, qui nous éclaire sur les modalités de l'excommunication. Un bourgeois appréhendé par un sergent de la prévôté-le-comte, office du prince, a été relaxé après requête de la ville en raison de son statut, sans considération pour le motif même de son arrestation. Or, à la base de celle-ci, se trouvaient des poursuites du promoteur visant à faire comparaître l'homme à Cambrai pour qu'on l'y interroge sur sa foi chrétienne : excommunié depuis plus d'un an et un jour en effet, il n'avait nullement manifesté le repentir indispensable à la levée de la censure, obstination qui, *ipso facto*, le rendait suspect de convictions hérétiques<sup>20</sup>, sa libération, de surcroît, l'encourageant à poursuivre ses mauvaises actions.

Les autres griefs en jeu demeurent isolés, mais non anodins. Voici un refus de payer des dîmes – une troisième matière, avec les dettes des prêtres et les testaments, qui sera au cœur des affrontements entre juridictions laïque princière et ecclésiastique en Hainaut<sup>21</sup> – : non, rétorque la partie

<sup>19</sup> Voir *Les statuts synodaux français* cit., pp. 110-111 (1283), pour les églises et cimetières.

<sup>20</sup> Le droit canonique statue en effet : « si quis, obdurato animo, per annum insorduerit (le terme et fort : *insordescere*, croupir dans la saleté) in censura excommunicationis, est de haeresi suspectus » (cité par E. Jombart, *Excommunication*, dans *Dictionnaire de droit canonique*, V, Paris 1953, col. 628). Avec les mots « car tous choux qu'il (*sic*) soubstiennent excommunicacion an et jour sont suspect en le foy », on retrouve l'expression usitée dans des statuts synodaux : Beaulande, *Le malheur d'être exclu* cit., p. 50.

<sup>21</sup> Voir note 13 *supra* ; le texte de 1449 laissera à la « court espirituelle » la compétence au possesseur pour les dîmes bien fondées et mal payées mais lui dénierait toute intervention au pétitoire « si question est si les hiretaiges doivent disme ou non ou de quelle part ou portion elle

valenciennoise, il ne s'agit en rien d'une opposition de principe à cette redevance, mais de réticences devant l'imposition de terres de peu de rapport, conjointement – accusation derechef jugée diffamatoire à Cambrai ! – à des pratiques lucratives du clergé en matière de sépulture (« terre sainte ») et de sacrements. Dans le même ordre de choses, un différend porte sur la taxation jugée abusive, par assimilation à des bénéfices de bon rapport, de cantuaires fondés dans une église de la ville. Cité à comparaître pour une dette, un particulier a détruit, déchiré le mandement de la cour et l'interdit a été fulminé dans l'étendue de la paroisse urbaine Notre-Dame de la Chaussée<sup>22</sup> où le fait s'est produit ; la ville ne dément certes pas la gravité de l'acte mais, les autorités n'en ayant pas été informées, elle considère la mesure comme non fondée et invite la juridiction épiscopale à s'en prendre au coupable, domicilié dans un village hors du ressort communal. L'argument de l'officialité est péremptoire : « en quelconque lieu on desquire, prent, violente, detient ou art<sup>23</sup> mandemens de le court espirituelle, on y doit cesser le divin office en celluy lieu leur le delit est commis dusqu'a tant que le justice du lieu livre le malfaiteur au diocesain »<sup>24</sup>. On lit bien qu'en l'espèce, les Valenciennois veillent à s'excuser de ne pouvoir satisfaire à cette condition.

Le moment est venu de s'interroger, au-delà des épisodes particuliers narrés, sur les motivations générales ou spéciales formulées dans leurs argumentations et leurs prises de position par les autorités en litige. Face à des reproches qui lui sont adressés, le magistrat valenciennois pose explicitement la question que voici : s'agit-il ou non d'un « cas de nouvelleté » ? des précédents justifient-ils une mesure arrêtée, une attitude choisie ? À propos des prêtres menés en charrette (« sur beniaux »), mesure infamante s'il en est, on souligne que la pratique ne doit pas surprendre, « ce n'est point cas de nouvelleté car de loing temps a on y a bien mené aultrez prestres », et qu'il faut tenir compte que « leur fait estoient si enorme et villain contre honneur de prestrage » : n'ont-ils pas en effet arraché du tabard d'un héraut puis jeté à terre et foulé aux pieds un écusson aux armes du duc de Brabant, « en despitant le prince et se signourie » ? Vendre des biens de prêtres n'est pas davantage « cas de nouvelleté mais cose de si loing temps usee qu'il n'est memore dou contraire », les compétences de la ville en matière « de tous les biens de desoubz li » étant fixée par le droit en usage. À l'inverse, ce qui fut « cas de nouvelleté » et mérita une peine d'emprisonnement sans autre forme de procès est le fait qu'un prêtre, conversant avec un notable, l'interpellant vivement, « mist main a lui et de fait le tint tout court, ce que oncques plus on ne vit advenir en le ville ne par especial en maison de justice »<sup>25</sup>.

est », ce qui est en cause ici.

<sup>22</sup> Paroisse de la rive droite née à la fin du XII<sup>e</sup> siècle du partage de la paroisse Saint-Géry.

<sup>23</sup> De « ardoir », brûler.

<sup>24</sup> Voir note 17 *supra*.

<sup>25</sup> Le récit est plaisant : le prêtre, écrit le promoteur, était muni d'un mandement de citation

Il arrive que l'on débâte autour d'un texte déterminé ou d'une règle vaguement invoquée. Ainsi, à propos encore de la prérogative communale touchant la vente de biens d'ecclésiastiques pour l'acquittement de dettes, le magistrat se réfère-t-il aux « edis », bans communaux, en vigueur, soumettant aux mêmes normes tous les habitants, ecclésiastiques compris : « *Item*, se les prestres sont prestres, se ne sont point pour chou leurs biens prestres » ! N'est-ce pas une condition impérative pour une ville de mériter le nom de « ville de loi » : « ville ne doit point yestre nommee ville de loi se elle ne congnoist de chou de desoubz li » ? Par contre, la même autorité conteste l'existence (« on ne scet point ne n'a oy parler »...) et l'enregistrement d'un texte normatif que lui attribue le promoteur, qui défendrait sous peine d'amende l'exécution dans sa ville de mandements de la cour épiscopale ; certes existe-t-il un ban déjà ancien interdisant à tout habitant de recourir à une autre justice pour obtenir le paiement d'un dû, ce qui amène le défenseur des prérogatives de l'official à écrire que c'est bien celui-ci qui est implicitement visé. À propos de « mettre main a biens de clerc ne de prestre » à la suite d'un décès, on reprochera aux Valenciennes de ne pas se conformer à leur propre coutume.

Un certain nombre de cas répertoriés ayant entraîné des censures, les documents émanés de la cour épiscopale traduisent à plus d'une reprise le souci de les fonder. Quatre motivations, en gradation, les justifient : la raison, la justice, le droit « écrit »<sup>26</sup>, les statuts synodaux (Cambrai) et provinciaux (Reims). C'est dans les premiers articles du mémoire répertorié sous 3<sup>o</sup> que ces références sont explicites. Sans doute les rédacteurs ont-ils considéré pour la suite qu'il était superflu de les répéter à l'envi. Toutes tendent à sauvegarder l'autorité et les droits de l'ordinaire, mais à propos d'un des épisodes les plus spectaculaires, ponctué de manifestations de foules, à savoir celui des prêtres exposés au courroux populaire, le clergé tout entier et l'Eglise dans son ensemble sont tenus pour victimes des agissements locaux : « le juridiction vituperant », mais aussi « le universelle eglise et prestrage escandelisant ».

Laissons ici de côté les arguments de l'ignorance ou du silence que mettent en jeu les autorités communales : les faits prétendument litigieux n'ont pas été portés à leur connaissance, aucune plainte n'a été déposée ni quelque délinquant réclamé en qualité de clerc ou d'agresseur de clerc par le doyen de chrétienté, compétent pour le faire. Bref, tout cela ne serait souvent que tracasseries sans fondement, « en ceste partie on a vullu et voelt occuper le ville et boines gens sans cause »... On débat du pourquoi d'une action et on invoque la

devant l'officialité d'Arras et il voulut seulement se faire écouter de son interlocuteur, « qui luy ne voloit entendre » ; dès lors, il « le tira ung petit par le manche pour soy retourner vers luy et entendre a se ditte execucion [du mandement], et par tant le prinrent a tort et a maise cause »... L'expression « maison de justice » désigne la halle échevinale, lieu de réunion du magistrat.

<sup>26</sup> Tout porte à croire, les sources statutaires épiscopales étant explicitement désignées par ailleurs, que l'on vise ici les prescriptions canoniques en général. Un concordat de peu postérieur (1434), conclu entre Philippe le Bon en qualité de comte de Hollande et l'évêque d'Utrecht, se réfère au *bescreven recht* à propos du droit d'asile : De Smet et Trio, *Verhouding tussen Kerk en stad* cit., p. 263 note 74.



bonne foi. Ainsi en va-t-il à propos d'un homme originaire de Gand (Flandre), arrêté pour avoir déjà contracté concomitamment deux mariages et manifesté la volonté de prendre une troisième épouse. Emprisonné à Valenciennes, l'individu a été « questionné » puis banni à perpétuité par la justice communale, à la grande colère de l'official, aux griffes duquel il a ainsi échappé. Le magistrat affirme que le motif de l'arrestation avait été le vol et que la justice épiscopale ne l'a nullement réclamé pour le cas mentionné, sans quoi on y eût donné bonne suite : « il n'est point à doubter que justice n'en eüst fait tel devoir qu'il eüst appartenu ». Interdit et excommunication ayant une fois de plus frappé, il serait pourtant équitable que « le ville ne boines gens ne doivent avoir a souffrir ne porter ». Mais le promoteur met en doute la parole de la ville : un informateur s'est rendu à Gand et le curé de Saint-Jean en cette ville a bien attesté, par écrit, la réalité du cas. L'entrave mise à l'exercice de la juridiction spirituelle justifie donc les mesures fulminées.

Les études déjà menées sur les relations entre juridictions laïques et ecclésiastiques en Hainaut, comme d'ailleurs dans des principautés voisines (Brabant, Hollande), au XV<sup>e</sup> siècle démontrent à suffisance que le prince territorial, en l'occurrence le duc de Bourgogne, ne demeure pas purement et simplement au balcon lorsque s'affrontent, tout comme ici, clergé et bourgeois<sup>27</sup>. Les années durant lesquelles se sont produits les faits relatés précédent et couvrent les débuts de la régence assurée par Philippe le Bon, de 1427 à 1433. Plus tard, sa médiation sera bienvenue dans plus d'un conflit et le magistrat d'une ville frappée par l'interdit, lui-même subissant de concert le poids de l'excommunication de ses membres, ne devra pas hésiter à y avoir recours. Toute requête et protestation de provenance locale ne peut en effet qu'apporter de l'eau au moulin lorsque s'ouvrent avec des représentants diocésains débats et négociations. Le bailli de Hainaut, principal officier du pays, les officiers de justice subalternes aussi, tel celui de la circonscription de Valenciennes, dénommé prévôt-le-comte pour le distinguer du prévôt de la ville, sont au premier chef concernés, de même, quand les choses gagnent en relief, que le conseil de la principauté, l'héritier de la *curia* médiévale.

Il est donc légitime de s'interroger sur la place dévolue dans le cours des événements à l'autorité temporelle par excellence du pays. Elle demeure à vrai dire restreinte. L'incident mettant en scène un héraut d'armes a été rapporté. Il s'est déroulé en 1425 et l'injure faite en s'en prenant à l'écusson du tabard visait le maître du héraut, à savoir le duc de Brabant. Jean IV, cousin germain du duc de Bourgogne, exerce en effet alors des prérogatives de « bail » dans un comté qui appartient en fait à son épouse Jacqueline de Bavière, avec laquelle il est en conflit ouvert. Dans cette lutte intestine, Valenciennes « tient » pour Jean<sup>28</sup> ; on comprend donc la fureur mal conte-

<sup>27</sup> Voir note 2 *supra*.

<sup>28</sup> J.-M. Cauchies, *Mons et Valenciennes devant le Grand Conseil du duc de Bourgogne : un conflit de longue durée (1394-1446)*, dans « Bulletin de la Commission royale pour la publication des anciennes lois et ordonnances de Belgique », 28 (1997), pp. 101-102.

nue des habitants du lieu à l'égard des deux prêtres coupables de l'outrage, fût-ce par attachement sincère, fût-ce par crainte de représailles de la part du Brabançon. Quand, l'année suivante, l'officialité proteste contre le maire de la ville, qui, quoique excommunié, continue à convoquer la « loi », celle-ci rétorque que la question est du ressort du prince puisque c'est lui qui baille commission au maire : « ossi le signourie et loi en ce cas toucque a monseigneur<sup>29</sup>... » En 1426 encore, la libération d'un bourgeois que l'Eglise voulait se faire livrer pour suspicion d'hérésie intervient à la suite d'une requête de la ville au prince, pour plus d'assurance : « et le loi, tenue au bourgeois pourcachier et deffendre et qui de le princhipalité dou cas ne savoient point encore parler, pourcacha a monseigneur de le avoir en delivre ». Plus tôt, dans le cas d'un chanoine de Condé agresseur d'un bourgeois de Valenciennes (1424), le promoteur s'était insurgé contre l'argumentation communale : « le prince n'a nul auctorité sur clers ne sur gens d'eglise ». Bref, on évoque un pouvoir temporel il est vrai mal assis, compte tenu des circonstances politiques, mais on ne le voit pas intervenir, directement et ouvertement en tout cas. Il en ira autrement dans l'avenir. Mais Jean IV sera mort et Philippe le Bon tiendra mieux les rênes en mains<sup>30</sup>.

La sentence d'excommunication frappant les prévôt, jurés et échevins de Valenciennes en charge au printemps 1430 ne fait état de griefs qu'en termes généraux : *contumaciae* (obstinations), *excessus* (abus de pouvoir), *crimina* (fautes), *delicta* (péchés), *impedimenta* (entraves, en l'occurrence à la juridiction ecclésiastique). Aucun épisode précis n'est narré. Tout semble se passer

<sup>29</sup> Le maire ou « mayeur » est un subordonné du prévôt-le-comte, au nom duquel il peut « semoncer » le magistrat, c'est-à-dire lui ordonner d'administrer la justice, et faire office de ministère public avant la lettre.

<sup>30</sup> Jean IV étant décédé le 17 avril 1427, le duc Philippe serait investi du gouvernement du Hainaut les 22-23 juin suivants. Un article des « responsces » du magistrat laisse apparaître en toile de fond un événement balisant la lutte pour le pouvoir en Hainaut (1424). A-t-on laissé le meurtrier du prêtre tournaisien quitter la ville ? Les gardes aux portes ne pouvaient connaître tout le monde, d'autant plus que les allées et venues y étaient alors exceptionnellement intenses et que « s'estoit mal a faire de pooir adont avoir ne trouver I pekeur (délinquant) ». Des négociations avaient en effet amené *intra muros*, relate-t-on, le duc de Bourgogne en personne, des gens de son hôtel, des États de Hainaut, des Membres de Flandre, des États d'Artois et de Brabant, députés par ces assemblées, et même encore « d'aultz signeurs et marches ». Voilà certes des données fort intéressantes pour les prémises de l'histoire des États généraux dans les Pays-Bas bourguignons : la question serait à approfondir. Mais sans doute y a-t-il ici confusion entre une assemblée des États de Hainaut effectivement tenue à Valenciennes en juillet 1424, en présence du duc Jean de Brabant – et non Philippe de Bourgogne –, et, en la même ville, une réunion du même corps, élargie à des représentants d'autres territoires, en juin 1427 cette fois, autour du nouveau gouverneur du pays et vrai maître des lieux. Les édiles valenciennois auraient donc bien ici la mémoire courte en termes de chronologie ! Sur les événements relatifs aux réunions de 1424 et 1427 : Devillers, *Cartulaire* cité, IV, Bruxelles 1889, pp. 395-396 (juillet 1424) ; R. Wellens, *Les États généraux des Pays-Bas des origines à la fin du règne de Philippe le Beau (1464-1506)*, Heule 1974 (Anciens pays et assemblées d'états, 64), pp. 97-98 (juin 1427) ; en juillet 1424, Philippe le Bon chevauchait de Paris à Dijon, loin du Hainaut, avant de séjourner quelque temps dans la capitale de son duché de Bourgogne : H. Vander Linden, *Itinéraires de Philippe le Bon, duc de Bourgogne (1419-1467) et de Charles, comte de Charolais (1433-1467)*, Bruxelles 1940 (Commission royale d'histoire. In-quarto), p. 40.

comme si l'autorité diocésaine tenait désormais la coupe pour pleine. La mesure viendrait ainsi sanctionner une accumulation de faits bien connus – *notoria*, lit-on –, suscitant à présent une réaction forte et globale. Mais ce n'était de toute évidence pas une « première » dans le cours des rapports difficiles entretenus par le siège de Cambrai avec la ville de Valenciennes ! Il est vrai, et on le comprend à la lumière du dossier reconstitué, que les édiles en cause, cités *peremptorie* devant l'official, n'y ont pas comparu en janvier précédent<sup>31</sup>, le promoteur de la cour épiscopale requérant alors du juge contre eux une sentence par contumace (« promotore dicta die coram nobis sufficienter comparante [...] et requirente ipsos citatos per nos contumaces reputari »). La copie conservée de l'acte, collationnée à l'original cinq jours seulement après la date de son émission<sup>32</sup>, a dû être jointe sans tarder aux autres pièces analysées – les mémoires dressés de part et d'autre –, ce que tend à accréditer la cote commune « N 85 » dont elles ont été pourvues par un archiviste à la fin du XVII<sup>e</sup> siècle<sup>33</sup>. Les relations des conflits suscités entre 1424 et 1428 sont fécondes, on l'a vu, en mentions d'interdits et d'excommunications qui n'eurent rien de virtuel...

L'official prescrit la publication (*palam et publice*) de la lettre par voies orale et d'affichage : « presens nostrum mandatum et omnia contenta in eodem in facie ecclesiarum predictarum locisque et ad valvas prenotatas veras copias presentium (...) affigendas et affixas ». Tout le clergé du diocèse de Cambrai en donnera notification (*denunciatio*) en chaire à toutes les messes, jusqu'à commandement contraire. On notera qu'à aucun moment, il n'est fait état dans le dossier d'une quelconque mesure d'obstruction à la publicité des censures, circonstance aggravante qui ne manquait pas d'alourdir encore certains contentieux. Il arrivait en effet que les autorités locales décrétassent l'irrégularité de pareilles publications<sup>34</sup>.

Faute de sources complémentaires, nous ne sommes nullement informés des effets sociaux produits en ville par ce chapelet de mesures coercitives et répressives. On en devine toutefois les inconvénients. La perturbation des offices et de la dispensation des sacrements ne restait pas la seule en pareil cas. L'ordre public, les activités professionnelles, le négoce pouvaient subir aussi leur lot de retombées<sup>35</sup>. Rivalités et rancœurs resurgissaient alors ; des édiles excommuniés, jugés ainsi peu fréquentables, étaient susceptibles de se heurter à la défiance et aux reproches de leurs administrés. Les membres du clergé se voyaient placés dans une situation délicate, tiraillés entre l'obéis-

<sup>31</sup> « Ad feriam quartam post Epiphaniam Domini », soit le 10 janvier 1430 (n. st.).

<sup>32</sup> Le 9 mars 1430 (n. st.).

<sup>33</sup> Il s'agit de Jean Godefroy, fonctionnaire royal français responsable de l'examen et du classement du chartrier (ou trésor) comtal hainuyer (1693), alors que son souverain, Louis XIV, s'est emparé de Mons ; la lettre « N » correspond dans ce classement à la layette des pièces intéressant Valenciennes : Cauchies, *Législation princière* cit., pp. 13-14.

<sup>34</sup> De Smet et Trio, *Verhouding tussen Kerk en stad* cit., p. 260.

<sup>35</sup> Une étude exemplaire des conséquences de l'interdit, tout à la fois religieuses, économiques et politiques, dans une grande ville a été menée par R.C. Trexler, *The spiritual power. Republican Florence under interdict*, Leiden 1974 (Studies in medieval and Reformation thought, 9).

sance due à leurs supérieurs et la convivialité qu'il souhaitaient entretenir avec ceux dont ils avaient la charge spirituelle. Le caractère parfois aigu des conflits pouvait résulter du fait que les dirigeants laïcs, officiers du prince et magistrats communaux, auraient tendance à considérer toute censure ecclésiastique prononcée contre eux comme un empiètement du chef de son initiateur. Les occasions de heurts étant fréquentes et répétées, des historiens ont estimé que vivre sous le coup d'un interdit s'assimilait dans certaines villes à une situation (presque) normale<sup>36</sup>. Dans ce cas, les effets réels devaient s'en trouver amortis. On songerait volontiers ici, par une analogie quelque peu osée, à ces maux d'un autre ordre, peste ou fléaux assimilés, avec lesquels on cohabitait parce qu'il subsistaient à l'état endémique, dans tel ou tel quartier, sans que l'on en pâtît trop... Protestant contre un interdit fulminé alors même que les biens du meurtrier d'un prêtre, lui-même en fuite, ont été mis sous séquestre pour être laissés à l'ordinaire, le magistrat de Valenciennes se dit lassé de ces vexations répétées : « Et enssi a bien considerer ces devoirs, le cés ne aultre occupation ne doit yestre en le ville pour ledit hommede. Et a dur venroit se a cascune fois pour enssi faire et a i tel, il convenoit que le corps de le boine ville euwist a souffrir, car elle seroit subgette as mauvaix ». S'il fallait tout le temps fulminer...

Pour nous, les choses s'arrêtent là. Négociations, levée – inéluctable –, conséquences à court terme échappent à notre information, réserve faite d'un texte livré sous forme abrégée par un auteur valenciennois de la fin du XVI<sup>e</sup> siècle dans une compilation de documents et de faits. Le 27 mars 1430 en effet, Philippe le Bon devait encourager la ville de Valenciennes à « faire appointement » : n'est-ce pas alors le « saint temps de Caresme » ? En cas d'échec, ajoute le duc de Bourgogne, médiateur en l'espèce, il faudra bien « proceder par le moyen de justice »<sup>37</sup>. Les interdits feront l'objet, avec nombre d'autres points litigieux, de l'édit et concordat promulgué près de vingt ans plus tard par ce prince pour le Hainaut (29 novembre 1449). Trois articles y seront consacrés, sans pour autant, on le devine, écarter à l'avenir tout affrontement autour du « cés ».

<sup>36</sup> De Smet et Trio, *Verhouding tussen Kerk en stad* cit., p. 254 ; les auteurs se réfèrent en particulier aux travaux de l'historien des rapports entre Église et « État » en Hollande, A.G. Jongkees.

<sup>37</sup> Devillers, *Cartulaire* cité, V, p. 77. Voir aussi M. Bauchond, *La justice criminelle du magistrat de Valenciennes au Moyen Âge*, Paris 1904, p. 42.

## ***New light on Machiavelli's letter to Vettori, 10 December 1513***

by William J. Connell

The letter that Niccolò Machiavelli sent to Francesco Vettori on 10 December 1513, announcing that he has written a treatise «on principalities», has become modern history's best known private letter<sup>1</sup>. Its fame is comparable with or possibly surpasses that of such earlier epistolary texts as Plato's Seventh Letter, the letters between Peter Abelard and Héloïse, Dante's Letter to Can Grande, and Petrarch's *Ascent of Mont Ventoux* and his *Ad posteritatem epistola*. Machiavelli's correspondence, moreover, is recognizably "private" and "modern" in ways that earlier and contemporary collections of «*familiares*» are not. Readers of Machiavelli's letter will recall how Machiavelli described to Vettori his life at the family farm («in villa») at Sant'Andrea in Percussina: how he enjoyed trapping birds in the fall; how, with winter coming, he was having a stand of trees cut down for firewood; how in the morning he read poetry; how he walked down the road to talk with passersby; how he took his midday meal with his family; how went to the «hosteria» next door to play games of «criccha» and «triche-tach» with his neighbors; how in the evening he donned «royal and courtly clothes» to «speak» with the ancient authors; how he said that had written a small work «*de principatibus*»; how he wondered whether to present it to Giuliano de' Medici; how he expressed doubt about visiting his friend Vettori in Rome; how he hoped that his fifteen years spent studying «l'arte dello stato» as a chancery official and his lifetime of faithful service to the Medici family might be rewarded with a job<sup>2</sup>.

An epistolary and rhetorical masterpiece, Machiavelli's letter has been published, translated and anthologized countless times. It continues to inspire reflection and study in all who are interested in Machiavelli's thought and writings. Among other things, the letter offers a fascinating view of the

<sup>1</sup> I am especially grateful to A.E. Baldini, Francesca Klein, Jean-Jacques Marchand, Carlo Alessandro Pisoni, Marcello Simonetta and Corrado Vivanti for their suggestions and assistance, and to the principi Borromeo-Arese for access to their private archive on Isola Bella.

<sup>2</sup> N. Machiavelli, *Opere*, ed. C. Vivanti, 3 vols., Torino 1997-2005 [henceforth: *Opere* (Vivanti)], II, p. 294-297; N. Machiavelli, *Tutte le opere*, ed. M. Martelli, Firenze 1971 [henceforth: *Tutte le opere* (Martelli)], p. 1158-1160.

circumstances, both material and psychological, in which Machiavelli wrote *The Prince*. Yet for all of the attention the letter to Vettori has received, the nature of the underlying text remains unclear. Discovered and published for the first time in 1810, the letter has never received a proper critical edition<sup>3</sup>. A series of cruxes and textual problems has led to frequent suggestions that the manuscript copy on which modern editions are based must be flawed. The study that follows sheds new light on Machiavelli's famous missive and the circumstances in which it was composed. Although the original of the letter is probably lost, new evidence suggests that the copy that we have is more reliable than generally supposed.

Another question involves the accuracy not of the copyist but of the letter-writer. A series of problems in the text, most of them involving sticky questions of chronology, has encouraged the idea that Machiavelli exaggerated or otherwise tailored the description of his daily activities in order to better impress Vettori or possibly other readers to whom Vettori might have shown the letter in Rome. Closer examination of these issues leads to the conclusion that while Machiavelli may have exaggerated here and there, the letter does not contradict in an unseemly way all that we know from other sources.

A third matter regards the invitation from Vettori of 23 November 1513 that prompted Machiavelli's famous response. Clearly Vettori invited Machiavelli to visit him in Rome after the term of the latter's confinement had been completed, but there has been much confusion concerning the nature of Machiavelli's *relegatio*. Moreover, the correspondence of the two friends had ended on 25 and 26 August, when Machiavelli sent letters to which Vettori did not respond. Hitherto we have not known what specifically prompted Vettori to take up the correspondence again after a silence of three months, but a newly discovered letter to Vettori from Florence offers a possible explanation.

Finally, what precisely the 10 December 1513 letter tells us about the progress Machiavelli had made in writing *The Prince* has been a matter of controversy. Some scholars have argued that only the first eleven chapters were completed by December 1513, while others have thought that the letter shows that *The Prince* was complete or nearly complete<sup>4</sup>. Machiavelli probably made final corrections to *The Prince* in 1515, as I have argued elsewhere, but there are indications in the letter to Vettori that the work was substantially complete through Chapter 25 by December 1513<sup>5</sup>.

<sup>3</sup> The letter was first published in A. Ridolfi, *Pensieri intorno allo scopo di Nicolò* [sic] *Machiavelli nel libro «Il Principe»*, Milano 1810, p. 61-66.

<sup>4</sup> Particularly helpful on this question is G. Sasso, *Il «Principe» ebbe due redazioni?*, in G. Sasso, *Machiavelli e gli antichi e altri saggi*, 4 vols., Milano-Napoli 1987-1997, II, p. 197-276.

<sup>5</sup> W.J. Connell, *Introduction: The Puzzle of «The Prince»*, in N. Machiavelli, *«The Prince» with Related Documents*, ed. W.J. Connell, Boston 2005 [henceforth: *The Prince* (Connell)], p. 19 and 29 n. 46. These later additions included Chapter 26, the reference to the *Discourses on Livy* in Chapter 2 and some alterations to Chapter 3 made after the death of Louis XII.

### 1. *The Machiavelli-Vettori Correspondence in the Apografo Ricci*

The modern textual tradition for the publication of Machiavelli's private correspondence began with Edoardo Alvisi's edition of the *Lettere familiari* in 1883, which, although marred by lacunae and the censorship of some material for reasons having to do with morals, was based on the transcription and comparison of the surviving manuscripts<sup>6</sup>. This was followed by biographical studies of Machiavelli that relied on ample archival research that were written by Pasquale Villari and Oreste Tommasini<sup>7</sup>. Subsequently manuscripts of the private letters were re-examined in the editions by Guido Mazzoni and Mario Casella (1929), Sergio Bertelli (1969), and Mario Martelli (1971)—the last of whom undertook an exacting retranscription of all of the known letters<sup>8</sup>. Further commentary was provided in Roberto Ridolfi's biography, in the two editions of the letters done by Franco Gaeta, and in Corrado Vivanti's now-standard edition of the *Opere*<sup>9</sup>. In addition Giorgio Inglese offered a rich commentary on Machiavelli's correspondence with Vettori and Francesco Guicciardini, Giovanni Bardazzi commented on ten of Machiavelli's private letters, including the one of 10 December 1513, and John Najemy published a fine study of Machiavelli's correspondence with Vettori from 1513 to 1515<sup>10</sup>.

The original of the letter that was sent by Machiavelli to Vettori on 10 December 1513 is not known to survive, although a few such originals from the Machiavelli-Vettori correspondence of 1513-1515 do exist. Nor is there a surviving draft or «minute» of the letter. Modern editions of the famous letter are based on a copy that was made at the behest of Machiavelli's grandson, Giuliano de' Ricci (1543-1606) in a large manuscript volume or «regesto» of Machiavelli material that Ricci compiled between the 1570s and the 1590s, now preserved in the Fondo Palatino of the Biblioteca Nazionale Centrale di Firenze and known to scholars as the *Apografo Ricci*<sup>11</sup>. Over the

<sup>6</sup> N. Machiavelli, *Lettere familiari*, ed. E. Alvisi, Firenze 1883, with the 10 December 1513 letter on p. 305-310. For an overview, see S. Bertelli, *Appunti e osservazioni in margine all'edizione di un nuovo Epistolario machiavelliano*, in «Il Pensiero politico», 2 (1969), p. 536-579.

<sup>7</sup> P. Villari, *Niccolò Machiavelli e i suoi tempi*, 3 vols., Milano 1895-1897<sup>2</sup> [henceforth: Villari, *Machiavelli*]; O. Tommasini, *La vita e gli scritti di Niccolò Machiavelli nella loro relazione col machiavellismo*, 2 vols. in 3, Bologna 1994-2003<sup>2</sup> [henceforth: Tommasini, *La vita*].

<sup>8</sup> N. Machiavelli, *Tutte le opere storiche e letterarie*, ed. G. Mazzoni and M. Casella, Firenze 1929, which included 37 selected letters; N. Machiavelli, *Epistolario*, in Machiavelli, *Opere*, 11 vols., ed. S. Bertelli, Milano and Verona 1968-1982, vol. V, which added many letters and gave the manuscript locations; *Tutte le opere* (Martelli).

<sup>9</sup> R. Ridolfi, *Vita di Niccolò Machiavelli*, Firenze 1978<sup>7</sup> [henceforth: Ridolfi, *Vita*]; N. Machiavelli, *Lettere*, ed. F. Gaeta, Milano 1961; N. Machiavelli, *Lettere*, ed. F. Gaeta, in N. Machiavelli, *Opere*, 4 vols. in 5, Torino 1984-1999, vol. III [henceforth: *Lettere* (Gaeta 1984)], p. 423-428; *Opere* (Vivanti).

<sup>10</sup> N. Machiavelli, *Lettere a Francesco Vettori e a Francesco Guicciardini*, ed. G. Inglese, Milano 1989 [henceforth: *Lettere* (Inglese)]; N. Machiavelli, *Dieci lettere private*, ed. G. Bardazzi, Roma 1992; J. M. Najemy, *Between Friends: Discourses of Power and Desire in the Machiavelli-Vettori Letters of 1513-1515*, Princeton 1993 [henceforth: Najemy, *Between Friends*].

<sup>11</sup> For the *Apografo Ricci* [henceforth: AR], see Biblioteca Nazionale Centrale di Firenze [hence-

years it has become commonplace for scholars to criticize Ricci's skills as a copyist and editor. His decision not to transcribe Machiavelli's lost play, *Le maschere*, is unforgivable. Ridolfi described Ricci as a copyist who «read "lightning bugs" for "lanterns"» («lesse lucciole per lanterne»)<sup>12</sup>. There is no question but that Ricci made a mess of the draft letter known as the *Ghiribizzi to Soderini*. Yet it is worth noting that Ricci was himself apologetic about his copy<sup>13</sup>. When it was discovered in modern times by Jean-Jacques Marchand, the autograph of the *Ghiribizzi*, which is a very sloppy draft with numerous corrections and cancellations and confusing marginalia, gave trouble to modern scholars, too<sup>14</sup>. Perhaps it has become too easy to attribute problems in the texts as we have them to Ricci's presumptive failings as a copyist and editor. Ridolfi's very remark about «lightning bugs» and «lanterns» is indicative of a certain laxity, since he referred to a text, the 10 December letter to Vettori in fact, that was copied not by Ricci but by someone else with a different hand<sup>15</sup>. A fresh examination of Ricci's manuscript provides new information concerning the reliability of Ricci's copies of an important group of letters sent by Machiavelli to Vettori, including the letter of 10 December 1513. What has been known hitherto about Ricci's treatment of the Machiavelli-Vettori correspondence has been determined largely by two passages that appear relatively early in the pages of the *Apografo* and were published by Tommasini. The first of these reads as follows:

Giuliano de' Ricci a chi legge. Io ho sempre (humanissimi lettori) tenuto gran conto delle memorie antiche, et sempre mi è parso officio debito di ciascuno il cercare di mantenere le cose dei suoi il più che sia possibile, et anco risuscitarle et metterle in luce et in consideratione alli posterì (non si partendo mai della verità). Et di questo mi sono in testimonio le fatiche che ho durato nella investigatione [*canc.*: delli huomini, et] delle actioni, et delli huomini della famiglia de' Ricci. Testimonio non piccolo ne rende ancora la presente fatica attorno alle cose di Niccolò Machiavelli mio avolo, et questa è la cagione che havendo trovato una lettera scritta dal decto Machiavello a Francesco Vettori sopra la triegua fatta l'anno 1513 infra il re di Francia et quello di Spagna, ricercando io di quella che discorresse sopra questa materia gli scrisse il Vettori, mi sono capitato alle mani molte lettere sue, le quali, parendomi che in esse, oltre alla piacevolezza et garbatezza, vi sia la notitia di molte cose seguite in quelli tempi, non narrate

forth: BNCF], Ms. Palatino, E.B.15.10. The letter of 10 December 1513 is copied on fols. 150v-151v.

<sup>12</sup> Ridolfi, *Vita*, p. 545 n. 19.

<sup>13</sup> Concerning the *Ghiribizzi*, Ricci wrote, AR, fol. 57v: «Se e' mi fosse lecito, o per meglio dire, possibile conservare l'originale di donde io trago la infrascritta lettera del Machiavello, credo certo che chi la vedesse in un medesimo tempo si maraviglierebbe della diligentia mia, mi scuserebbe delli errori che nel copiarla havessi fatto, mi harebbe compassione della fatica che ci ho durato, et in ultimo mi harebbe un grande obbligo, ché io l'havessi ridotta in modo che si possa vedere. Et perché la è piena di cassi, di rimessi consumata, non tanto dal tempo, quanto dalla straccaturagine, et inoltre vi sono molte chiose, io, per poterle notare, et anco per potere fare mentione di alcune diversità, lascio, contro al solito, le margini del libro larghe. Leggetela dunque, humanissimi lettori, ché in essa riconoscerete lo ingegno del Machiavello non meno che vi habbiato fatto, o siate per fare, in altra cosa sua». See also Tommasini, *La vita*, I, p. 631-632.

<sup>14</sup> R. Ridolfi and P. Ghiglieri, *I «Ghiribizzi» al Soderini*, in «La bibliofilia», 72 (1970), p. 52-72.

<sup>15</sup> The *Apografo Ricci* is mentioned just five times in Ridolfi's *Vita*, and in those instances Ridolfi seems to have been following Tommasini's analysis rather than taking a look for himself. See Ridolfi, *Vita*, p. 434 n. 9, 472 n. 2, 539 n. 34, 541 n. 34.



semplicemente, ma discorsovi [sic] sopra fondatamente et con bellissimo giuditio, mi sono risoluto a registrarle tutte per ordine, inserendovi le risposte del Machiavello dove le troverò, che saranno poche, perché non se ne salvava registro. Non voglio già mancare di dire che queste lettere sono scritte da l'uno amico all'altro, senza alcuno ornamento di parole, et senza mettervi alcuno studio, ma solo tirato giù secondo che veniva loro alla mente. Serviranno anco queste lettere, oltre a quanto ho detto di sopra, per dimostrare lo stato nel quale doppo il 1512 si ritrovava il Machiavello, et il giuditio che ne faceva il Vettori, persona reputatissimo, giuditiosissimo, et in quelli tempi favorito, et molto adoperato dalli Ill.<sup>mi</sup> Medici, sotto il governo de' quali si reggeva all'hora la città doppo la cacciata del Soderini, al cui tempo, sendo stato assai adoperato il Machiavello, et particolarmente nelli ultimi mesi, quando lo exercito spagnuolo passò in Toscana, et saccheggiò Prato, non è maraviglia se dalli inimici suoi (che non gliene avanzava), fu trovata occasione di farlo incarcerare, come nella seguente lettera del Vettori, scrittali pochi giorni doppo la creatione di Leone X<sup>mo</sup>, s'intenderà<sup>16</sup>.

[Giuliano de' Ricci to the reader. I have always, most humane readers, taken great care of old records, and I have always thought it everyone's proper obligation to try to preserve one's ancestors' things insofar as possible, and also to revive them and bring them into the light and into the consideration of those who have come afterward, albeit never departing from the truth. And evidence of this is the labor that I have endured in the investigation of the deeds and men of the Ricci family. Further and not trivial evidence of this is my present effort concerning the affairs of Niccolò Machiavelli, my grandfather. And this is the reason why, when I found a letter written by the said Machiavello to Francesco Vettori about the truce that was made in 1513 between the kings of France and Spain, and then when I looked for the letter that Vettori wrote to him discussing this matter, there came into my hands many of his [Vettori's] letters, which, since it appeared to me, apart from the pleasure and style they offered, that they contained notice of many things that happened in those times, not simply narrated, but treated in a well-founded way, with the best judgment, I decided to copy them out all in order, inserting Machiavello's responses wherever I find them, although these will be few because no register of them was kept. I don't want to forget to say, of course, that these letters are written from one friend to another, without fancy wording, and without putting much effort in them, just written down as matters came to mind. These letters will also be useful, in addition to what I have said above, to illustrate the state in which Machiavello found himself after 1512, and what was thought of it by Vettori, who was a person of the highest reputation and most judicious, and in those times favored and put to much use by the most illustrious Medici, under whose rule the city was then governed after the fall of Soderini, during whose time, since Machiavello was much employed then, and especially during the last month, when the Spanish army passed into Tuscany and sacked Prato, it is no wonder if an occasion was found by his enemies (of which he had no lack), for putting him in prison, as may be understood in the following letter of Vettori's, written to him a few days after the election of Leo X].

As can be seen, the passage emphasizes Ricci's partiality toward Machiavelli, which was certainly genuine. It has caused modern critics, not without reason, to be suspicious of Ricci's role as an apologist for his grandfather. It is also worth noting that at the time of writing, which is to say in the early 1570s, Ricci seems to have thought that very few of Machiavelli's letters to Vettori had survived.

A second passage, also known to scholars, comments again on these letters of Vettori's to Machiavelli, and it has encouraged speculation about the censorship to which Ricci may have subjected the correspondence. It reads as follows:

<sup>16</sup> AR, fol. 44r. My transcription. See also Tommasini, *La vita*, I, p. 633; Bertelli, *Appunti e osservazioni* cit., p. 38. Translations in brackets [ ] are my own.

Giuliano de' Ricci a chi legge. Passarono infra questi tempi tra il Vettori et il Machiavello molte lettere appartenenti a loro innamoramenti, et a loro piacevolezze et burle, le quali, non mi essendo capitate alle mani, non sono state da me registrate, come anco ho lassato di registrare qualche parte delle lettere da me copiate dove il Vettori tratta di simili intrattenimenti, et solo ho scritto quella parte dove si tratta di stati et di maneggi d'importanza, sì come ho fatto nella seguente lettera, nella quale ho lasciato il principio et il fine, trattandosi in que' luoghi di uno amorazzo del Vettori. Et solamente ho scritto quello che egli risponde a quanto dal Machiavello gli fu scritto in materia di quello che andava attorno circa la resolutione del re di Spagna di guerra o d'accordo con quello di Francia [*canc.*: il che è]. Et chi vuole vedere quanto sopra questo scrisse il Machiavello, legga il discorso, o lettera, la quale è copiata qui addietro a ccarte [*sic*] sette<sup>17</sup>.

[Giuliano de' Ricci to the reader. During this time many letters were exchanged between Vettori and Machiavello that pertained to their love affairs, and to their pastimes and jokes, which, not having come into my hands, I have not copied down, just as I have also left out some portion of the letters I have copied in which Vettori treats of similar amusements, and I have only written down that part in which states and affairs of importance are treated, just as I have done in the following letter, in which I have left out the beginning and the end, since in those places it is a question of a love affair (*amorazzo*) of Vettori's. And I have only written down what he writes in reply to Machiavello regarding what was happening concerning the choice of the king of Spain, whether for war or for an agreement with the king of France. And whoever wants to see what Machiavello wrote about this should read the discourse or letter that was copied here above on page seven].

Ricci thus acknowledges that he has suppressed material deemed indecent or extraneous, and there has thus been ample reason to wonder about the content of the letters that survive only in Ricci's copies. As Guido Ruggiero put it recently, «Unfortunately, however, the letters that we have were for the most part those collected and copied in the sixteenth century by Giuliano de' Ricci, Machiavelli's grandson, who admits that he “did not copy” some of the material that dealt with the “loves” and “pleasures” of Machiavelli and his friends and instead focused on copying letters that dealt with “states” and “matters of importance”»<sup>18</sup>. Confirming that Ricci left out a good deal of the Vettori material, John Najemy points out that the *Apografo* «contains only nine of Vettori's eighteen extant letters to Machiavelli between March 1513 and January 1515»<sup>19</sup>.

It is interesting to note that both of the statements by Ricci that have been quoted appear in the first part of his manuscripts volume. Ricci's *Apografo* was a work in progress, which meant that it was possible that he would have access at a later date to new material, and also that he might choose to treat it differently. Another interesting element is that the censorship mentioned in the second statement seems specifically to regard Vettori's letters. It leaves us wondering about the other half of the correspondence, which is to say the letters that Machiavelli sent to Vettori, and whether they too were censored.

<sup>17</sup> AR, fol. 54r. My transcription. See also Tommasini, *La vita*, I, p. 638.

<sup>18</sup> G. Ruggiero, *Machiavelli in Love: Sex, Self, and Society in the Italian Renaissance*, Baltimore 2006, p. 129.

<sup>19</sup> Najemy, *Between Friends*, p. 12.

How Machiavelli's letters to Vettori came into Ricci's hands is a matter that has not yet been studied, although the *Apografo* sheds much light on the question. At a certain point, after a series of initial documentary finds, including the ones discussed above, Ricci began copying into his register the contents of journals of Machiavelli's that contained extracts of Florentine history beginning from the death of Cosimo de' Medici<sup>20</sup>. When a new document or set of documents came his way, he interrupted the work on these extracts in order to insert the new discoveries in his register. One such instance occurred with the discovery of the *Discorso o dialogo intorno alla nostra lingua*, which came to Ricci's attention in a manner described on folio 133r of the *Apografo*:

Giuliano de' Ricci a chi legge. Havevo disegnato d'andare seguitando di copiare questi giornaletti d'histoire del Machiavello, quando mi è capitato alle mani un discorso o dialogo intorno alla nostra lingua, dicono fatto dal medesimo Niccolò, et se bene lo stile è alquanto diverso dall'altre cose sue, et io in questi fragmenti che ho ritrovati non ho visto né originale, né bozza, né parte alcuna di detto dialogo, nondimeno credo si possa credere indubitatamente che sia dello stesso Machiavello, atteso che li concepti appariscono suoi, che per molti anni per ciascuno in mano di chi hoggi truova si tiene suo, et quello che più di altro importa è che Bernardo Machiavelli, figlio di detto Niccolò, hoggi di età di anni 74, afferma ricordarsi haverne sentito ragionare a suo padre, et vedutogliene fra le mani molte volte. Il dialogo è questo che seguita<sup>21</sup>.

[Giuliano de' Ricci to the reader. I had planned to go on copying these notebooks of the histories of Machiavello when there came into my hands a discourse or dialogue about our language that they say was done by our same Niccolò. And although the style is somewhat different from his other things, and although I, among the literary remains that I have found, have seen neither the original nor a draft nor even a part of the said dialogue, nonetheless I believe it can be believed without a doubt to be by the same Machiavello, seeing as the ideas appear to be his, and as all of the current owners maintain that it is his; and, what counts most of all, is that Bernardo Machiavelli, the son of the said Niccolò, who is today 74 years old, affirms that he remembers hearing it discussed with his father and seeing it in his hands many times. The dialogue is this one that follows].

This particular passage was much discussed in the debates concerning the authorship of the *Discorso o dialogo* that erupted in the 1970s. Of interest is not only what it tells us about the course of Ricci's work, but also the indication of an evolving critical caution concerning the documents copied into the register. Ricci hesitates between the terms «discorso» and «dialogo» in discussing the untitled work. He acknowledges the difficulty in securing a firm attribution. He even admits that the style is «alquanto diverso» from that of his grandfather. Since Ricci took the trouble to give «74» as the age of his uncle Bernardo, who was born in 1503, Ricci's copying of the text can

<sup>20</sup> AR, fol. 85r.: «Fragmenti, ricordi, et giornali appartenenti a historia, autore Niccolò Machiavelli. Copierànnosi con quel maggiore ordine che si potrà, levandole da quadernucci et stracciafogli di sua mano...». See also Tommasini, *La vita*, I, p. 651.

<sup>21</sup> AR, fol. 133r. My transcription. See also Tommasini, *La vita*, I, p. 663. The text of the *Discorso o dialogo* continues to AR, fol. 138r.

been dated firmly to 1577<sup>22</sup>. One could wish for more information, but it is doubtful that Ricci was being intentionally opaque or stingy<sup>23</sup>.

But let us return to the correspondence with Vettori. After inserting the *Discorso o dialogo*, Ricci went back to copying historical extracts<sup>24</sup>. But then a new find came his way. It is surprising, considering the patient work on the Machiavelli-Vettori correspondence that has been done by so many scholars, many of whom state that they have consulted the *Apografo Ricci*, that the important passage that follows has not yet been remarked on or published<sup>25</sup>. Probably it dates from 1577 or shortly thereafter, since it appears only a few folios after the 1577 interruption for the copying of the *Discorso o dialogo*, although the only firm *terminus ante quem* is a reference to «1594» appearing later in the *Apografo*<sup>26</sup>. The important passage reads as follows:

Giuliano de' Ricci a chi legge. Di nuovo sono forzato a intralasciare l'ordine dell'andare copiando scritture appartenenti ad historie, havendo havuto di Casa li heredi di Francesco Vettori le stesse lettere che dal Machiavello furono scritte al decto Vettori in più tempi, le quali io copierò tutte, senza alterare niente, et se ad alcuno paresse, che ce ne fosse qualcuna, che havesse del licentioso, o, del lascivo, pàssila, et legga le altre dove egli maravigliosamente discorre delle cose del mondo. Scúsimè che, forse ingannato dalla molta affezione che io porto alla memoria di questo huomo, mi lascio trasportare a scrivere tutto quello che di lui truovo, sia come si voglia, il che fo con più ragione, havendo disegnato che questo libro sia comune a pochi altri che a me stesso<sup>27</sup>.

[Giuliano de' Ricci to the reader. Again I am forced to interrupt the order of my copying writings pertaining to histories, since I have had from the house of the heirs of Francesco Vettori the very letters that were written by Machiavello to the said Vettori at different times. I shall copy them all, without altering anything, and if anyone should think that there is a letter that has something licentious or lascivious in it, he should pass it over and read the others where he [Machiavelli] discourses marvelously on the affairs of the world. Excuse me that, perhaps deceived by the great affection that I feel for the memory of this man, I allow myself to be moved to write down all that I find that is his, be what it may. I do it with more justification since I have planned that this book should be shared with few others besides myself].

Unfortunately, Ricci's notice concerning these letters from Machiavelli to Vettori escaped the attention of Tommasini, who did not include it in his «analisi» of the *Apografo Ricci*. Subsequent scholars have commonly used

<sup>22</sup> B.T. Tommaso Sozzi, *Introduzione*, a N. Machiavelli, *Discorso o dialogo intorno alla nostra lingua*, Torino 1976 [henceforth: *Discorso* (Sozzi)], p. xi.

<sup>23</sup> Even if one modern scholar may have thought so: M. Martelli, *Una giarda fiorentina. Il «Dialogo» della lingua attribuita a Niccolò Machiavelli*, Roma 1978.

<sup>24</sup> AR, fol. 138v: «+. Seguitano Memorie appartenenti a historie del 1495 scritte da Niccolò Machiavelli». These continue to fol. 141r.

<sup>25</sup> See, in addition to the works cited in notes 6-10 above, R. Ridolfi, *Per un'edizione critica dell'epistolario machiavelliano. La lettera al Vettori del 29 aprile 1513*, in «La bibliofilia», 68 (1966), p. 31-50; R. Ridolfi, *Le carte del Machiavelli*, in «La bibliofilia», 71 (1969), p. 1-23; E. Niccolini, *Ventiquattro lettere di Francesco Vettori*, in «Giornale storico della letteratura italiana», 107 (1990), p. 547-589; and J.-J. Marchand, *Gli autografi di otto lettere di Francesco Vettori al Machiavelli (e una lettera inedita a Paolo Vettori)*, in «Interpres», 12 (1992), p. 223-269.

<sup>26</sup> For «1594» in the ms., see below at note 29.

<sup>27</sup> AR, fol. 141v [with «142» at the upper left]. My transcription.

Tommasini's description as a guide to the Ricci manuscript, which is why, one suspects, that the passage has not been known to Machiavelli scholarship.

The folios that come after this important passage contain the texts of no fewer than twenty-one of Machiavelli's letters to Vettori, and they include the famous letter of 10 December 1513. Ricci preserved the group's chronological order (and presumably this was how they were arranged among the Vettori papers), with the exception of the first two letters copied, dated 16 April 1514 and 20 December 1514 respectively, which he seems to have studied and transcribed first because they were related to letters that Ricci already knew from other versions preserved among Machiavelli's papers<sup>28</sup>. The letters that followed—and they include many of the most important of the correspondence – were those of 13 March 1513, 18 March 1513, 9 April 1513, 16 April 1513, 20 June 1513, 10 August 1513, 26 August 1513, 10 December 1513 (the letter that concerns us especially), 19 December 1513, 5 January 1514, 4 February 1514, 25 February 1514, 10 June 1514, 4 December 1514, 31 January 1515, 5 April 1527, 14 April 1527, 16 April 1527, and 18 April 1527.

Ricci's comment tells us much that is new about the texts of the above-mentioned letters to Vettori. To begin with, the copies were made from Machiavelli's «originals», which is to say they were made from the physical autographs that were received by Vettori and preserved with Vettori's papers. The copies that Ricci worked from were thus cleaner and more legible than Machiavelli's drafts, and they represented the writer's final versions. They were also the texts to which Vettori's letters actually responded, not the approximate versions found in drafts.

Of great interest is Ricci's claim to have copied these particular letters in their entirety. Censorship was no longer an issue.. «[F]orse ingannato dalla molta affezione», he copied this group of letters without omitting licentious content.

Also worth noting are Ricci's changed intentions for the *Apografo* volume. In his initial statement, quoted above, Ricci had spoken of reviving and bringing into the light lost work. In the past scholars have reasonably associated the *Apografo* with a project to publish Machiavelli's writings. But Ricci now states that he intends for his volume to be shared with «pochi altri che a me stesso». Times were changing. Certain forms of literature were in the process of going underground. Machiavelli's letters were best enjoyed in private.

<sup>28</sup> The texts of these two letters have given editors trouble in recent decades, and each is perhaps worth revisiting. On the letter of 16 April 1514, see *Lettere* (Inglese), p. 235. About this letter, Ricci writes in AR, fol. 141v: «Questo che seguita è il fine di una lettera scritta dal Machiavello al Vettori addi 16 di aprile 1514 che è differente da il fine della copia trovata fra le scritture sue che è registrato in questo a carte 7 et notatevi le diversità sino a tanto che ha riscontro in qualche parte». On the letter of 20 December 1514, see J.-J. Marchand, *Contributi all'Epistolario machiavelliano: la lettera al Vettori del 10 dicembre 1514 nel testo originale inedito*, in «La bibliofilia», 72 (1970), p. 265-266; and compare *Lettere* (Inglese), p. 265-266. About this letter Ricci writes in AR at fol. 142r: «Giuliano de' Ricci a chi legge. La lettera che seguita fu scritto dal Machiavello per compiere a un discorso fatto che è copiato in questo a carte 4, 5, 6, non li parendo in quello havere a bastanza dichiarato la intentione sua nel dannare la neutralità».

Unfortunately, none of these twenty-one letters survives today as an «original», which is to say in the physical version that was sent to Vettori and later copied into the *Apografo*. We do not have the precise texts to compare with Ricci's copies. Considering the effort that has gone into hunting down Machiavelli's autographs over the past century, one imagines these missing letters were lost or destroyed as a group, or, if they have survived (although that seems increasingly unlikely), they survive together. A similar fate seems to have befallen nineteen letters from Machiavelli to Francesco Guicciardini that were given to Ricci for copying in 1594 by the heirs of Francesco Guicciardini. Those letters, too, survive only in Ricci's copies<sup>29</sup>.

## 2. Ricci's Corrections to the Letter of 10 December 1513

Since copies are all that we have, it makes sense to inquire whether these are «good» copies. In the course of transcription Ricci undoubtedly introduced errors into the texts that we have. Yet, as has been seen, he tried to treat this group of letters sent to Vettori with particular care. By now, moreover, Ricci had acquired a good deal of experience in the reading of Machiavelli's script. Certainly he was better off than when, eighty-four folios earlier, he had struggled with the *Ghiribizzi to Soderini*<sup>30</sup>. A few of the letters, including the famous letter of 10 December 1513, were copied in a hand other than Ricci's, but Ricci corrected these himself against the originals.

In particular, is the text of the 10 December letter reliable? It helps to know that the source was the original letter as sent. It was once argued that Ricci had the text of the 10 December letter copied either from Machiavelli's surviving draft or from a copy made from the draft<sup>31</sup>. To be sure, it was already clear, from the measured way in which the letter of 10 December replied to Vettori's of 23 November, that Machiavelli must have sent something like the letter whose text we have had all along<sup>32</sup>. Moreover, Vettori's letter of 24 December 1513 discusses Machiavelli's of the 10<sup>th</sup>, acknowledging the earlier letter's queries about employment and about the dedication of

<sup>29</sup> Ridolfi, *Vita*, p. 574 n. 9, writes that there were twenty of them, now lost, but Ricci's text, *AR*, c. 162r, states «diciannove». See also Tommasini, *La vita*, I, p. 641. On these letters and the Guicciardini correspondence see G. Masi, «*Saper ragionar di questo mondo*». *Il carteggio fra Machiavelli e Guicciardini*, in *Cultura e scrittura di Machiavelli*, Atti del Convegno di Firenze-Pisa 27-30 ottobre 1997, Roma 1998, p. 487-522, and especially 492 on Ricci.

<sup>30</sup> See above at notes 13-14.

<sup>31</sup> C.H. Clough, *Machiavelli's «Epistolario» and Again What Did Machiavelli Wear in the Country*, in «*Bulletin of the Society for Renaissance Studies*», 1 (1983), 3, p. 7-18 [henceforth: Clough, *Machiavelli's «Epistolario»*], p.11: «Moreover what emerges is the very strong likelihood that the text of the famous letter in the Regesto derived from a draft which the writer had retained among his papers».

<sup>32</sup> FV to NM, 23 November 1513, in Machiavelli, *Opere* (Vivanti), II, p. 291-293; and on the way Machiavelli matched Vettori's letter point by point see G. Ferroni, *Le «cose vane» nelle «Lettere» di Machiavelli*, in «*Rassegna della letteratura italiana*», 76 (1972), p. 215-264 (231-232).

Machiavelli's «trattato»<sup>33</sup>. But now we can speak of this letter and also of the other letters in this group with greater confidence as copies from the author's final versions.

The copying of the 10 December letter does seem now and then to have given difficulty to Ricci's scribe. He left two blank spots where Ricci himself supplied the missing words from the original, and there were also a few other interventions of Ricci's. So, about two-thirds of the way through the letter, when Machiavelli discusses his evenings with the ancients, there appears a small group of corrections. After the words «Et quelli per loro humanità mi rispondono:», the scribe left a blank that Ricci filled with the words «et non»: «*Et non sento per 4 hore...*» [the words in Ricci's hand are here in italics]. On the next line Ricci corrected the scribe's «non sento la povertà» to read «non *temo* la povertà» – a correction that caused Ricci himself some initial difficulty, since the «s» of the canceled «sento» was initially overwritten as an «f». The next line, too, in which Machiavelli quotes from the *Paradiso*, also required Ricci's intervention. The scribe had left a blank, writing: «perché Dante dice che non fa scienza senza [...] lo havere inteso», so Ricci first supplied the missing «*lo ritenere*». Then he canceled the words «ritenere lo havere», leaving the initial «*lo*». Finally he supplied in the margin the words that give the proper text from *Paradiso* V.41-42: «perché Dante dice che non fa scienza senza *lo ritenere, lo havere* inteso». Possibly Ricci consulted a printed Dante in his effort to set matters straight. Ricci's last correction appears toward the end of the letter, where he canceled the scribe's «che io non diventi per povertà contendendo» and wrote in the margin «*contennendo*». In modern editions the passage thus reads «che io non diventi per povertà *contennendo*»<sup>34</sup>.

«Contennendo» is a somewhat recondite term, and Ricci's apposite correction becomes possibly more significant when one realizes that Machiavelli used the word no fewer than four times in Chapter 19 of *The Prince*<sup>35</sup>. The word's appearance at the end of the 10 December 1513 letter may suggest that at the time the letter was written Machiavelli's treatise «on principalities» already comprised Chapter 19. Moreover, since Chapter 19 is the concluding chapter of Machiavelli's section on the moral qualities of the prince, comprising Chapters 15-19, it would make sense if this entire section of *The Prince* had been completed by the time Machiavelli wrote to Vettori. The evidence is slender, but it is there. And we owe some thanks to Ricci for preserving this small clue.

The foregoing suggests that Ricci was a reasonably careful editor of this group of Machiavelli's letters, and in particular, of the letter of 10 December 1513. Readers of Machiavelli's correspondence will find this somewhat reassuring. Yet there remain a number of problems with the text.

<sup>33</sup> FV to NM, 24 December 1513, in Machiavelli, *Opere* (Vivanti), II, p. 300-303.

<sup>34</sup> AR, fol. 151v.

<sup>35</sup> N. Machiavelli, *Il Principe*, ed. M. Martelli, Roma 2006 [henceforth: *Il Principe* (Martelli)] p. 243 (19.1), 244 (19.4), 263 (19.55), 264 (19.57).

### 3. «Settembre», Thrushes and «I tordi»

A longstanding crux in the famous letter to Vettori involves the season for trapping birds, or «fowling». Near the letter's beginning Machiavelli states that «up until now» he has been catching thrushes, that he has passed all «September» this way, and that now he is sorry that trapping is over. «Ho infino a qui uccellato a' tordi di mia mano... E così stetti tutto settembre; dipoi questo badalucco... è mancato con mio dispiacere». With his usual attention to Tuscan detail, Roberto Ridolfi noted that the season for thrushes begins in October and ends at the end of November. He thus proposed emending «settembre» to «novembre»<sup>36</sup>.

And the emendation makes perfect sense. Ornithologists confirm that the thrush (*turdus philomelos*), which migrates between the Baltic and Africa and passes through Italy in October and November, travels in accordance with a seasonal pattern that has been fixed for at least five millennia<sup>37</sup>. According to one source,

...il passo intensivo e regolare, in base alla media delle osservazioni e relative registrazioni effettuate per circa un decennio, si può calcolare che inizi il 10-11 ottobre: esso procede con regolare aumento per tutta la 2<sup>a</sup> quindicina del mese, raggiungendo il massimo nell'ultima decade, si mantiene ancora sensibile ma in costante diminuzione nella 1<sup>a</sup> quindicina di novembre, e continua a decrescere nella 2<sup>a</sup> quindicina di detto mese. Con la fine di novembre il passo, almeno nella fase normale, può dirsi esaurito<sup>38</sup>.

[...the dense and regular migration, based on the mean of observations and their related recording over about a decade, can be calculated to begin at 10-11 October. It continues to augment regularly throughout the second half of the month, reaching a peak in the last ten days. It is still detectable but in steady decline in the first half of the month and it continues to decrease in the month's second half. With the end of November the migration, at least in its normal phase, can be said to be finished].

For Folgore da San Gimignano, writing in the early fourteenth century, October was the month for fowling and November the month for eating birds and game<sup>39</sup>. The first day of October marks the beginning of the Italian hunting season today, as is known to anyone who has heard (and smelled) the birdshot of hunters in the Tuscan hills – or been asked by the Lega Abolizione Caccia to sign a petition. Thus Ridolfi's emendation, from «settembre» to «novembre» should be accepted. Although Ridolfi doesn't say so, possibly Ricci's copyist read an abbreviated «9bre» as «7bre», a slip that could have happened easily enough.

But there is a related question about Machiavelli and thrush migration that deserves to be addressed at the same time, for there is, as yet, no firm date for a sonnet by Machiavelli entitled «The Thrushes» (*I tordi*). Dedicated

<sup>36</sup> Ridolfi, *Vita*, p. 515 n. 19.

<sup>37</sup> T. Alerstam, *Bird Migration*, Cambridge 1990 (Lund 1982), p. 226.

<sup>38</sup> M. Rotondi, *Migratori alati*, Roma 1962, p. 204.

<sup>39</sup> Folgore da San Gimignano, *Ottobre and Novembre*, in *Poeti del Duecento*, ed. G. Contini, 2 vols., Milano-Napoli 1960, II, p. 416-417.



to Giuliano de' Medici, the prospective dedicatee of *The Prince* according to the letter of 10 December 1513, the poem states that it accompanies a gift of thrushes. Giuliano is urged not to pay attention to Machiavelli's critics but to judge for himself the worth of the thrushes and of the poem's author. Ridolfi believed that the poem accompanied an actual gift of thrushes – «un mazzo di tordi presi al suo uccellare di Sant'Andrea» – sent to thank Giuliano for his help in securing Machiavelli's release from prison in March 1513<sup>40</sup>. Earlier, Villari had taken as a sarcastic expression of Machiavelli's bile, writing «Ora nessuno vorrà credere che il Machiavelli mandasse veramente un dono di tordi a Giuliano de' Medici»<sup>41</sup>. More recently Hugo Jaeckel advanced the idea that the sonnet *I tordi* was composed as a possible dedicatory poem for *The Prince*<sup>42</sup>.

The problem with Ridolfi's argument has to do with the proposed March timing for the gift. It is true that there is a return migration of thrushes in the spring that takes place in March and early April, but the number of birds in the *ripasso* is smaller, and the volume of the catch would have been diminished. Autumn, moreover, is a pleasant time for fowling, while March is often a cold month. By May 1513 Giuliano de' Medici had left Florence for Rome. A gift of real thrushes could not have coincided with the autumnal fowling season, unless the impoverished Machiavelli went to the unlikely trouble and expense of sending the birds all the way to Rome. Telling further against Ridolfi's argument is the likelihood that Machiavelli remained in Florence immediately after his release from prison. His letters of 13 and 18 March and of 9 and 16 April were signed «in Firenze». The first secure evidence of Machiavelli's presence at Sant'Andrea does not appear until his letter of 29 April, when there would have been no more thrushes about to catch<sup>43</sup>. To be sure, the distance to Sant'Andrea was not far, and it is still possible that Machiavelli visited Sant'Andrea shortly after his liberation. But he is not likely to have trapped the birds personally given his recent experience of torture. And according to contracts they signed with Machiavelli's father, Bernardo, the tenants at Sant'Andrea had been prohibited from fowling.

Machiavelli's December letter describes bird-trapping as something that to him seemed «dispettoso e strano»: it was new to him. It thus seems probable that the sonnet «The Thrushes» refers not to an out-of-season gift of birds made in March, but to *The Prince*, and that it was Machiavelli's newly discovered pleasure in trapping thrushes in October and November, as reported in the famous letter to Vettori, that inspired the poem's conceit.

<sup>40</sup> Ridolfi, *Vita*, p. 222.

<sup>41</sup> Villari, *Machiavelli*, II, p. 208.

<sup>42</sup> H. Jaeckel, *I «tordi» e il «principe nuovo»*, *Note sulle dediche del Principe di Machiavelli a Giuliano e Lorenzo de' Medici*, in «Archivio storico italiano» [henceforth: «ASI»], 156 (1998), p. 73-92. For a further endorsement see R. Fubini, *Postilla ai «Tordi»*, in «ASI», 156 (1998), p. 93-96.

<sup>43</sup> NM to FV, 29 April 1513, in *Lettere* (Gaeta), p. 383: «...come ne fa fede lo essermi ridotto in villa...»

#### 4. But «ottobre» or «dicembre»? And, again, «settembre»?

A further problem involving chronology internal to the letter of 10 December 1513 regards the date that appears next to Machiavelli's signature, which all of the modern editions give as «Die x Decembris 1513», although in fact the *Apografo* has it thus: «Die x D oct.bris 1513». [See Figure 1]. Another manuscript version of the famous letter, copied into a Barberini volume now in the Vatican Library, gives the date as «Die x octobris 1513». Since the Barberini volume is usually considered as dependent upon the *Apografo*, it simply confirms our reading of the *Apografo*'s «octobris», although Barberini version lacks the puzzling «D»<sup>44</sup>. Thus Ridolfi was mistaken when he wrote that the *Apografo* has the «correct date of 10 December»<sup>45</sup>. But neither was Cecil Clough correct, when, in a discussion of the letter's manuscript tradition, he wrote that «In both Ricci's *Regesto* and the Barberini manuscript the letter is dated: 'die X Octobris in villa'», since Clough failed to mention the «D» of the Ricci codex (which also clearly states «In Firenze», not «in villa»)<sup>46</sup>.

Thus what stands out is the mysterious capitalized «D». Presumably it indicates the word «Decembris», since, apart from the «settembre» already discussed, the other elements of the correspondence agree that Machiavelli must have sent the letter to Vettori in December. But what were the sources of the contradictory «D[ecembris?]» and «oct[o]bris» that are found in the *Apografo*'s text? By itself, the «D» is meaningless, which would explain why it was omitted in the Barberini version, which most scholars consider a copy made from the *Apografo*. Moreover, Ricci's scribe is unlikely to have introduced a meaningless «D» without there having been a referent in the text he was copying. Thus it would appear that there really was a «D» in the original, which would almost certainly have been part of a full «Decembris». But instead of writing «Decembris», Ricci's scribe lifted his pen, and, without cancelling the «D», he wrote «oct.bris». Whether this was done on his own initiative or on Ricci's is not certain.

Two factors seem likely to have prompted the decision to alter the original's «Decembris» to «oct.bris» in the copy. The first of these was the error,

<sup>44</sup> Vatican Library, MS Barberini lat. 5368, also dating from the late sixteenth century. J. E. Law and M. Davies, *What Did Machiavelli Wear in the Country?*, in «Bulletin of the Society for Renaissance Studies», 1 (1983), 2, p. 12-18, argued that the Barberini volume may preserve variants for the text of the 10 December 1513 letter that still require careful study. Interestingly, B.T. Sozzi argued that while the Barberini volume was dependent on the *Apografo*, it also contained a few significant variants in its text of the *Discorso o dialogo intorno alla nostra lingua*; see Machiavelli, *Discorso* (Sozzi), p. XIV-XVI. Clough, *Machiavelli's «Epistolario»*, p. 7-18, discounted the variants in the version of the 10 December 1513 letter and followed Tommasini in maintaining that the Barberini text is entirely dependent on the *Apografo*.

<sup>45</sup> Ridolfi, *Vita*, p. 515 n. 18.

<sup>46</sup> Clough, *Machiavelli's «Epistolario»* cit., p. 12. Like Clough, Inglese, in *Lettere* (Inglese), p. 197 n. 11, noticed the *Apografo*'s «oct.bris» although he missed the «D» that appears in the ms. Inglese gives the proper place: «In Firenze».

already discussed, by which the word «novembre» had been substituted with «settembre» earlier in the letter. A correction of the famous letter's date from December to early October would accord well with Machiavelli's earlier statements that «Ho infino a qui [uccellato...] .... E così stetti tutto settembre; dipoi questo badalucco... è mancato con mio dispiacere». Thus a date emended to October will have supported the prior (but mistaken) date for thrush-snaring that had already been copied into the text.

Yet there is another item in Machiavelli's prior correspondence that is likely to have contributed to, or, more likely, to have been the source of the chronological confusion evident in the *Apografo's* copy of the 10 December missive. Machiavelli's letter to Vettori of 9 April 1513 speaks of his confinement to Florentine territory, which remained a running theme of the correspondence. Toward the end of the 9 April letter, referring to his sentence of confinement, Machiavelli writes:

Se io potessi sbucare del dominio, io verrei pure anch'io sino costì a domandare se il papa è in casa; ma fra tante grazie, la mia per mia stracurataggine, restò in terra. Aspetterò il settembre<sup>47</sup>.

[If I could just get out of the dominion, I too would go right there to ask if the Pope was «at home»; but among so many requests that have been launched at him, mine, on account of my own negligence, fell to earth. I shall wait for September].

The «September» date has escaped notice: neither Ridolfi, nor Gaeta nor Inglese nor Najemy remarks on it<sup>48</sup>. In the immediate context it seems to allude to an anticipated end of Machiavelli's confinement within the Florentine dominion. Certainly there is every reason to believe that is how Ricci would have understood the sentence «Aspetterò il settembre». The 9 April letter is copied in Ricci's own hand<sup>49</sup>. Since the letters to Vettori letters were copied in chronological order, Ricci's knowledge of the 9 April letter probably preceded his knowledge of the 10 December 1513 letter.

Ricci probably did not know that Machiavelli's confinement ended in November but believed it ended in September. The actual sentence, as determined by the Signoria, established a *relegatio* that would end on 10 November 1513, but Ricci nowhere cites this information, which in all likelihood he did not possess<sup>50</sup>. The correspondence known to Ricci offers nothing that would correct the notion that beginning in September 1513 Machiavelli would be free to travel. Machiavelli's epistolary exchange with Vettori came to what now seems a strange halt after 26 August, and it lasted until 23 November. And Vettori's elegant letter of 23 November, which was clearly an

<sup>47</sup> NM to FV, 9 April 1513, in *Lettere* (Inglese), p. 110-111.

<sup>48</sup> Najemy, *Between Friends*, p. 103-110, offers an especially fine discussion of the letter, although this point eludes him.

<sup>49</sup> AR, fol. 144v.

<sup>50</sup> N. Machiavelli, *Opere*, 6 vols., ed. P. Fanfani, L. Passerini and G. Milanese, Firenze 1873-1877 [henceforth *Opere* (Fanfani)], I, p. LXXXIV.

invitation to Machiavelli to come to Rome after the completion of the *relegatio*, seems not to have been known to Ricci, since it was not copied into the *Apografo*. Presumably it was among those letters of Vettori's «that pertained to their love affairs, and to their pastimes and jokes, which, *not having come into my hands*, I have not copied down»<sup>51</sup>.

Machiavelli's letter of 10 December, which, from its opening words, was plainly written after the expiration of the sentence of confinement, was a letter that Ricci would have expected to be dated in early October. And the *Apografo*'s copies of the 9 April and 10 December 1513 letters agree in giving «settembre» where «novembre» would be appropriate. Possibly in one or both cases an original «9bre» was read as «7bre». The errors thus supported one another in confirming a putative end of Machiavelli's confinement in September-October rather than in November-December.

Three emendations to the texts that we now have from the Ricci manuscript would seem to be required. In Machiavelli's letter to Vettori of 9 April 1513, «settembre» should be changed to «novembre». In Machiavelli's letter to Vettori of 10 December 1513, «settembre» should again be changed to «novembre». And in the same letter «Die x D oct.bris 1513» should be emended to «Die x Decembris 1513».

## 5. Machiavelli's «exile»

There has been much confusion about the terms of Machiavelli's «confinement» or «*relegatio*». Mindful of the classical and twentieth-century literary traditions concerning political exile, modern writers have tended to portray the period after Machiavelli's release from prison as a time of forced, Ovidian (or Nerudian) isolation. Removed from the commerce and friendships of urban life, finding companionship among the rustics at the Albergaccio, Machiavelli gave himself over to his own thoughts and to his writing. To be sure, these ideas correspond more or less with how Machiavelli felt at the time, and sometimes – particularly in the work of a great writer – psychological truth may count for more than the «*verità effettuale*». Yet the practical aspects of the circumstances in which Machiavelli found himself warrant further investigation and clarification, especially since he describes them himself in some of his letters.

Machiavelli's suffering did not descend all at once, rather it came in a series of moments. After the sack of Prato on 29 August 1512, after the removal of Pier Soderini as Standardbearer for Life, and after the return of the Medici to Florence, Machiavelli remained in his position as Second Chancellor and Secretary to the Ten of Liberty and Peace, although the Nine of the Militia, whose Chancellor he had been, were immediately dismissed. He was able to remain in office until 7 November 1512, when he was fired

<sup>51</sup> See above at note 17.

from his positions as Second Chancellor and Secretary to the Ten<sup>52</sup>. On that same date, the Ten declared that their account with Machiavelli was paid and closed. Interestingly, the Ten said nothing that could be read as critical of Machiavelli or his service. They did not state that he had been fired<sup>53</sup>. As we shall see, it is possible that he remained on reasonably good terms with the magistracy he had served for so long.

Three days later, on 12 November 1512, the Signoria passed a deliberation that prevented Machiavelli from leaving Florentine territory for one year's time. The *relegatio* to Florentine territory put Machiavelli on a leash, but it did not exile him to a distant place. Machiavelli was able to stay in Florence, and he could come and go as he pleased so long as he remained in the Florentine dominion. Thus, to cite one common misunderstanding, the chronology in Giorgio Inglese's popular Einaudi edition of *The Prince* – possibly compiled by someone other than Inglese – errs when it states that after his release from prison in March 1513 Machiavelli was «confinato all'Albergaccio, a Sant' Andrea in Percussina», and that a «ritorno» took place in February 1514<sup>54</sup>.

The *relegatio* also imposed a penalty of 1000 gold florins should Machiavelli leave the dominion, and it required that he find three guarantors («fideiussores») who pledged to pay the sum if he violated the terms, although it did not require that the sum be placed on deposit, as some have imagined<sup>55</sup>. The three guarantors, each responsible for one third of the amount, were Filippo and Giovanni Machiavelli and Francesco Vettori, who thus had a material interest in his friend's standing and whereabouts.

On 17 November there was a third deliberation of the Signoria concerning Machiavelli by which he was forbidden to enter the Palace of the Signoria for one year's time<sup>56</sup>. Yet already on 27 November there was business that required that Machiavelli meet with the Ten of Liberty and Peace, and the Signoria lifted its ban, possibly to the end of the month<sup>57</sup>. On 4 December the Ten again needed to meet with him, and the Priors voted to allow him to enter and leave the Palace until the terms of the then-sitting Ten had ended<sup>58</sup>.

<sup>52</sup> The Signoria's deliberation was published in *Opere* (Fanfani), I, p. LXXXIII.

<sup>53</sup> This document, Archivio di Stato di Firenze [henceforth: ASF], *Dieci di Balìa, Deliberazioni, condotte e stanziamenti*, 59, fol. 63v, 7 December 1512, has not been published. It reads: «Prefati domini X<sup>m</sup> etc. approbaverunt computum et rationes [canc.: habitas] redditas dicto eorum magistratui per Nicolaum domini Bernardi de Machiavellis in omnibus et per omnia prout per Mag.<sup>cum</sup> dominum Pellegrinum de Lorinis, eorum collegam, firmatum et conclusum est, et propter ea stantiaverunt, etc. Mandantes, etc.».

<sup>54</sup> N. Machiavelli, *Il Principe*, ed. G. Inglese, Torino 1995 [henceforth: *Il Principe* (Inglese)], p. LXVIII.

<sup>55</sup> *Opere* (Fanfani), I, p. LXXXIV: «et quod pro observantiis ... dicte relegationis [Machiavelli] debeat dare [...] fideiussores [...] qui se, [...] sub dicta eadem pena florenorum mille largorum, [...] in forma valida se obligent, quod predictos fines in totum servabit; alias de eorum solvere debeant, ut supra, Communi Florentie quantitatem predictam [...]». R. Devonshire Jones, *Francesco Vettori: Florentine Citizen and Medici Servant*, London 1972, p. 104, believed the large sum was actually deposited.

<sup>56</sup> *Opere* (Fanfani), I, p. LXXXIV.

<sup>57</sup> *Opere* (Fanfani), I, p. LXXXIV-LXXXV.

<sup>58</sup> *Opere* (Fanfani), I, p. LXXXV.

The story of Machiavelli's arrest, torture, imprisonment and release in February and March 1513 has been told many times. Pertinent here is that Machiavelli's release on 12 or 13 March appears to have been unconditional, save that the *relegatio* of the preceding November remained in effect, as did the prohibition on entering the Palace of the Signoria. But soon the latter prohibition on entering the Palace was again temporarily lifted. On 21 March it was raised until 21 April, «pro nonnullis Communi Florentie et sibi necessariis»<sup>59</sup>. Again on 10 July it was deemed necessary («opus est») for Machiavelli to be permitted to enter the Palace until 31 July<sup>60</sup>. The reason for the series of four exemptions from the ban on entering the Palace has never been explained, although, as Ridolfi notes, there were two outstanding financial questions, both involving expenditures that Machiavelli had made on behalf of the Ten in 1512, that were cleared up, respectively, on 10 December 1512 and 28 July 1513<sup>61</sup>. Both issues were thus resolved during periods when Machiavelli was permitted to enter the Palace.

These exemptions, which were granted by the Signoria, meant that Machiavelli could be summoned to the Palace for a total of nearly four months, for what seems consistently to have been business with the Ten, for whom he had formerly worked. He was, in effect, «on call», and, in addition to the questions regarding his expenses there may have been other business, perhaps related to the reorganization of the Chancery's business under his successor, Niccolò Michelozzi, that required his availability<sup>62</sup>. To give one example, a deliberation of the Ten, dated 27 August 1513, awarded two of Machiavelli's former *coadiutori* in the Chancery, Ser Luca Fabiani and Ser Giovanni da Poppi, seven gold florins each, for copying into a register «quam plura et plura instrumenta indutiarum et pacum et aliorum pertinentium ad eorum tempora sparsim in pluribus et pluribus membranis descriptorum, ne perirent [...]»<sup>63</sup>. During Machiavelli's last several years in the Second Chancery he was frequently away on foreign missions and on recruiting trips for the *militia*, and his *coadiutori* were also frequently involved in outside business. Michelozzi's job involved restoring order to an office that had come close to spinning out of control<sup>64</sup>. Whatever the precise reasons for these exemptions, it is reasonable to conclude that even during his so-called «exile» Machiavelli was in contact with the Ten and its chancery staff in the Palace of the Signoria at various times between March and July of 1513.

<sup>59</sup> *Opere* (Fanfani), I, p. LXXXV.

<sup>60</sup> *Opere* (Fanfani), I, p. LXXXV.

<sup>61</sup> *Opere* (Fanfani), I, p. LXXXII-LXXXII.

<sup>62</sup> For changes in the Second Chancery in this period, see V. Arrighi and F. Klein, *Aspetti della cancelleria fiorentina tra Quattrocento e Cinquecento*, in *Istituzioni e società in Toscana nell'età moderna*, Atti delle giornate di studio dedicate a Giuseppe Pansini, Firenze, 4-5 dicembre 1992, 2 vols., Roma 1994, I, p. 148-164 (153-155).

<sup>63</sup> ASF, *Dieci di Balìa, Deliberazioni, condotte, stanziamenti*, 60, fols. 47v-48r, 27 August 1513.

<sup>64</sup> Note the series of crises described by A. Guidi, *Un segretario militante. Politica, diplomazia e armi nel cancelliere Machiavelli*, Bologna 2009, p. 159-386, especially after the creation of the Nine for the Militia.

Just how Machiavelli may have divided his time between Florence and the farm at Sant'Andrea in Percussina is not easy to judge. Machiavelli famously wrote to Vettori on 10 December:

Io mi sto in villa, et poi che seguirno quelli miei ultimi casi, non sono stato, ad accozarli tutti, 20 dì a Firenze<sup>65</sup>.

[I am staying at my farm, and since these last misfortunes of mine I have not been in Florence twenty days if they are counted all together].

Yet, as we have seen, the very same letter was signed «In Firenze»<sup>66</sup>.

Machiavelli probably did spend more than the «20 days» in Florence reported in the letter. Of his twelve surviving letters dating from 13 March to 10 December 1513, eleven, including the letter of 10 December, are signed either «In Firenze» or «Florentie». Only the letter of 10 August 1513 is actually signed «in villa»<sup>67</sup>. Of the letters signed from Florence there are two, those of 29 April and 10 December, whose texts nonetheless place Machiavelli at his farm. Since Sant'Andrea was located along the post road to Rome, there was no need for Machiavelli to return to Florence to post his letters to Vettori. In those two instances (29 April and 10 December) he is likely to have returned to Florence for other reasons. In the periods when Machiavelli was permitted to enter the Palace in Florence, 21 March–21 April and 10–31 July, there is nothing that would place Machiavelli at Sant'Andrea, so he is likely to have stayed in Florence, «on call», as previously suggested, for those weeks. What is important is the realization that Machiavelli was not living in forced isolation but instead moving back and forth between Florence and his farm.

Although not strictly in rural solitude, Machiavelli was in all likelihood present at Sant'Andrea for two extended periods in 1513. One of these was in the spring, when the letter of 29 April gives the first indication of his presence of the farm, and two letters in the second half of June signed «Florentie» and «In Firenze», after more than a month of epistolary silence, suggest that he had returned to the city. A second period at Sant'Andrea seems to have lasted from August through to the December letter to Vettori. In a letter to Giovanni Vernacci of 4 August, sent from Florence, Machiavelli reported the death of a newborn – an event that surely added to his misery. Since the letter of 10 August to Vettori (to whom he did not report the death) is signed «in villa»

<sup>65</sup> *Lettere* (Inglese), p. 193.

<sup>66</sup> See note 46 above.

<sup>67</sup> The twelve letters are as follows: NM from Florence to FV, 13 March; NM from Florence to FV, 18 March; NM from Florence to FV, 9 April; NM from Florence to FV, 16 April; NM from Florence (but stating that he is at S. Andrea) to FV, 29 April; NM from Florence to FV, 20 June; NM from Florence to Giovanni Vernacci, 26 June; NM from Florence to Giovanni Vernacci, 4 August; NM from S. Andrea to FV, 10 August; NM from Florence to FV 25 August; NM from Florence to FV, 26 August; NM from Florence (but stating that he is at S. Andrea) to FV, 10 December.

from Sant'Andrea, it seems probable that Machiavelli (perhaps with his recuperating wife) spent most of August there as would have been customary, and that he returned to Florence only briefly at the end of the month, when he sent two letters to Vettori signed «In Firenze» dated 25 and 26 August. From 26 August to 10 December 1513, we have no letters at all of Machiavelli's, and the account given in the 10 December letter indeed suggests that Machiavelli spent those months at his farm. Thus he and his family did not return to the city in September as would have been customary. Although the famous letter to Vettori may have exaggerated somewhat the extent to which Machiavelli was removed from Florence, the letter's overall accounting for his time in these months seems sincere and authentic.

When pondering the circumstances in which Machiavelli composed his treatise, it should also be noted that Sant'Andrea in Percussina was not really the isolated spot it is sometimes imagined as being – or that it is today. The farm, with its *osteria* known as the «Albergaccio», stood close by the Strada Regia Romana. This was the road that in the thirteenth and fourteenth centuries had gradually displaced the Via Francigena (whose undoing was that it avoided Florence) as the principal route for messengers, pilgrims and merchants traveling between Rome and all of Northern Europe from the Rhine basin westward. In the fifteenth and sixteenth centuries a normal day's journey for a pilgrim would have begun in Florence and ended at San Casciano, which was described by a pilgrim from Douai in 1518 as «a small town, but with good lodgings»<sup>68</sup>. In the 10 December letter San Casciano appears as the «next town over», where Machiavelli imagined that the «cries» of his friends at the Albergaccio could be heard<sup>69</sup>. San Casciano was where Vettori knew Machiavelli could easily get the news of the world<sup>70</sup>.

And even at Sant'Andrea, Machiavelli was able to stay abreast of major events. To be sure, in the mid-fifteenth century a deviation put the Albergaccio somewhat off of the main road, and its function as an overnight inn went into decline, so that by the time of Machiavelli's will of 1522 it appears to have closed<sup>71</sup>. Yet in 1513 the tavern (*osteria*) continued to offer a midday meal, and there was a small road that connected the tavern to the Strada Regia. It was at this intersection with the Strada Regia that Machiavelli would talk with travelers. In the letter to Vettori Machiavelli writes that after reading poetry in the late morning:

<sup>68</sup> *Voyage de Jacques le Saige, de Douai à Rome, Notre-Dame-Lorette, Venise et autres saints lieux*, ed. H.-R. Duthilloeul, Douai 1851, p. 20: «De Flourensse à Sainte Cachenne a huit mille. C'est une petite ville; mais il y a des bons logis...».

<sup>69</sup> NM to FV, 10 December 1513, in *Lettere* (Inglese), p. 194: «...et siamo sentiti nondimanco gridare da San Casciano».

<sup>70</sup> FV to NM, 20 August 1513, in *Lettere* (Inglese), p. 169: «et vi dirò come le cose al presente stanno, benché, se voi andate qualche volta, ora che siate in villa, a San Casciano, lo dovete intendere quivi».

<sup>71</sup> R. Stopani, «Io mi sto in villa ...»: *L'Albergaccio del Machiavelli a Sant'Andrea in Percussina*, Firenze 1998, p. 47-52.



Transferiscomi poi in su la strada nell'hosteria, parlo con quelli che passano, dimando delle nuove de' paesi loro, intendo varie cose et noto varii gusti et diverse fantasie d'huomini<sup>72</sup>.

[I then move on to the road that leads up to the *osteria*, I speak with the people who pass by, I ask for the news of their countries, I learn various things and take note of the differing tastes and diverse fantasies of men].

Sometimes the word «paesi» has been read as «villages», but in this context it means «countries». Machiavelli was chatting not with villagers (*paesani*) of the Val di Pesa, but rather with travelers from foreign lands who were going to and from Rome. Thus Machiavelli's protests to Vettori that he was now uninformed about major events ring true to the extent that Machiavelli was now cut off from diplomatic correspondence. But even at his farm he was able to keep up with the news that was coming from all over Europe.

## 6. A New Letter from the Ten to Vettori

One of the unanswered questions concerning the Machiavelli-Vettori correspondence involves the silence that followed Machiavelli's letter of 26 August 1513. The correspondence of the two friends had been regular to that point, but after Machiavelli's of 25 August, which requested a favor for Donato del Corno, and a second of 26 August, which replied to Vettori's of 20 August, Vettori stopped writing. With no response to the previous two letters, Machiavelli did not write a third, and meanwhile Vettori remained silent until on 23 November he sent his warm invitation to visit Rome. There are any number of reasons why Vettori may have failed to reply to Machiavelli after 26 August. The two letters sent on 25 and 26 August may have been seen as excessive or asking for more than Vettori could help with. The friends' exchanges concerning France and Spain in previous letters may have run their course. Vettori may have decided to wait for Machiavelli's *relegatio* to end – and to be sure that it ended and that his friend was in the clear – before writing again. A puzzling chancery subscription on a recently discovered letter, sent by the Ten of Balìa in Florence to Vettori and dated 12 November 1513, may have a bearing on this latter possibility.

The letter, preserved in the private archive of the Borromeo family on Isola Bella, belonged to the ordinary correspondence of the Ten with Vettori, who was serving as Florentine ambassador to the papal court in Rome<sup>73</sup>. [See

<sup>72</sup> NM to FV, 10 December 1513, *Lettere* (Inglese), p. 194.

<sup>73</sup> Archivio privato Borromeo di Isola Bella, Acquisizioni diverse, «F», Firenze, Ten of Balìa to Francesco Vettori, 10 November 1513. The first published mention appears in P.O. Kristeller, *Iter italicum*, 7 voll., Leiden 1963-2007, VI, p. 14. The letter was brought to my attention by M. Simonetta, *Lettere «in luogo di oracoli». Quattro autografi dispersi di Luigi Pulci e di (e a) Niccolò Machiavelli*, in «Interpres», 21 (2002), p. 291-301 (293n.8), where he mentioned it as follows: «... e un'altra dei Dieci a Francesco Vettori oratore in Roma, attribuita alla mano di Marcello Virgilio Adriani, Ex Palatio Florentino, 12 novembre 1513, pure siglata N. Mach».

Figures 2 and 3]. The letter bears the usual corporate «signature» of the magistracy of the Ten. At bottom, again following ordinary practice, there is a chancery subscription. But the subscription reads «N. Mach(e)l.» – a tag that is hard not to read as standing for «Niccolò Machiavelli». [Figure 4]. On the *verso* [Figure 3] one sees that the letter was sealed before being sent, and that it was marked by Vettori as received. The hand of the letter is not Machiavelli's. This was known in the nineteenth century, when, according to a notice on the *verso*, it was identified (mistakenly) as belonging to the First Chancellor, Marcello Virgilio Adriani<sup>74</sup>. It is highly unlikely that Machiavelli had a role in the physical production of the document, since on 12 November there were still five days remaining in the prohibition against his entering the Palace where the letter was written.

Subscriptions such as the one at the bottom of this letter would normally give the name of Florence's First or Second Chancellor. But the chancellor did not always write his own name. Instead, the *coadiutore* who wrote out the final copy of the letter would generally add the subscription with the Chancellor's name. Alison Brown has shown that a Chancellor's subscription might be used by his staff even when he was away from Florence. Thus the subscription was not a signature but an expression of the Chancellor's official responsibility for the work<sup>75</sup>. What is so odd about the letter in the Borromeo Archive is that while a subscription of «Niccolò Machiavelli» would have been appropriate before 7 November 1512, when Machiavelli was fired, it is highly inappropriate on a letter drawn up the following year. That the Borromeo letter is genuine is beyond doubt. The records of the Ten in the Archivio di Stato di Firenze include both a draft of the 12 November letter preserved in a «minutario» and a copy of the final version, preserved in the magistracy's «copiario»<sup>76</sup>. Vettori's letters to the Ten are also found in that magistracy's *Responsive*, where his letter of 18 November confirms that he had received theirs of 10 November, which was undoubtedly the Borromeo letter<sup>77</sup>.

Transcription of the 12 November letter reveals a text of little intrinsic interest. [See the full text in the Appendix]. The Ten's opening statement, to

<sup>74</sup> The notice reads: «Autografo di Marcello Adriani, in nome di Macchiavello [sic]».

<sup>75</sup> A. Brown, *Bartolomeo Scala, 1430-1497, Chancellor of Florence: The Humanist as Bureaucrat*, Princeton 1979, p. 141 n. 18.

<sup>76</sup> The version in the «minutario» is in ASF, *Dieci di Balìa. Legazioni e commissarie* [henceforth: *DBLC*], 38, fol. 326v (pencil). The version in the «copiario» is in *DBLC*, 40, fol. 185r (pencil).

<sup>77</sup> ASF, *Dieci di Balìa, Responsive*, 118, fols. 298r-300r, Francesco Vettori to the Ten of Balìa, 18 November 1513 (298r): «Mag.ci Domini, etc. Per una mia breve de' xliiii significai a V.S. come in quella hora partivo et andavo a rincontrare mons.re Gurgense per honorarlo in nome di V.S. come mi era suto ordinato da N.S. Trova' lo a Viterbo, et sono stato in sua compagnia insino a hiersera, ché entrò in Roma a una hora di nocte per riservarsi poi a entrare con cerimonia quando li potrà esser dato el consistorio publico. Tornando, trovai che erano venute da V.S. *tre lettere*, le quali m'erono sute mandate, et non mi havendo rincontro el cavallaro pel cammino, me l'ha questa sera portate indietro, *le quali sono de' x, xii, et xliiii*, et perché N.S. questa sera ha a parlare con Gurgense, che verrà a visitare Sua S.ta secretamente, indugerò a conferire queste lettere a domactina et max.e quella delli x circa la Carfagnana et scriverò a V.S. subito quello ritrarrò...». [Emphasis added].

the effect that although they have nothing important to relate they are writing because good practice requires them to write every few days, situates the letter firmly in Vettori's correspondence of those days. It begins:

Mag. ce Orator etc. Questa fia più per buono uso che per alchuno bisogno che ne occorra, non havendo cosa alchuna da scriverti, né adviso da alchuna banda. Fu l'ultima nostra de' x et l'ultime che habbiamo da te sono de' v, et non havendo dipoi altro da te stimiamo che non habbi havuto che scrivere, come non habbiamo anchor noi. Pure non si vogliono obmettere le buone consuetudini di scrivere spesso, et quando bene non accaggia cosa che importi, scrivere almeno de' 3 o 4 di una volta, ché serviva questo offitio almeno a' privati che scrivono per questa via.

[Magnificent Ambassador etc. This letter is more to keep up with good practice than for any pressing need, since we have nothing to write to you about, nor news from anywhere. Our last was of the 10<sup>th</sup> and the last we have from you were of the 5<sup>th</sup>, and since we haven't had any more from you, we imagine you had nothing to write, much like us. But one ought not to omit the good custom of writing frequently, even when there is nothing happening that matters, writing at least once every 3 or 4 days, so that at least this office assists the private persons who send letters in this way].

This may be compared with Vettori's own description of the dull correspondence with the Ten that appears in the letter he wrote just eleven days later to Machiavelli and five days after receiving the letter from the Ten with its puzzling subscription, «N. Mach(e)l.». Vettori wrote to Machiavelli on 23 November:

Scrivo, de' 4 di una volta, una lettera a' Signori X, dico qualche novella stracha et che non rilieva, ché altro non ho che scrivere...<sup>78</sup>.

[I write a letter to their Lordships the Ten once every four days. I tell them some tired and unexciting news since I have nothing else to write...]

Perhaps what is most interesting is the reference to certain «private persons» («privati») who used the couriers of the Ten to send their own letters. Possibly Machiavelli used the Ten's couriers for his correspondence with Vettori, which might explain why two of his letters from Sant'Andrea (29 April and 10 December) were signed from Florence<sup>79</sup>.

The letter to Vettori entered the Borromeo archive probably as the result of a purchase by Count Gilberto VI Borromeo (1815-1885), a collector of autograph letters and manuscripts who bought widely on the European market<sup>80</sup>. Already in the nineteenth century it was known that the letter was not an autograph of Machiavelli's, and Count Gilberto could himself have judged this by comparing it with the genuine Machiavelli autographs in his possession<sup>81</sup>. The early attribution of the hand to Marcello Virgilio Adriani is best

<sup>78</sup> FV to NM, 23 November 1513, *Lettere* (Inglese), p. 189-190.

<sup>79</sup> See note 67 above.

<sup>80</sup> C.A. Pisoni, *À célèbre bibliophile conte Gilberto Borroméo...*, in *Capolavori da scoprire. La collezione Borromeo*, a cura di M. Natale, Milano 2006, p. 221-231.

<sup>81</sup> Simonetta, *Lettere* cit., p. 291-301.

explained by the existence of other letters from the Florentine chancery in which this same scribe, working under Adriani, used Adriani's subscription, «Marcellus»<sup>82</sup>. A person who did not understand the difference between a chancery subscription and a signature, and who saw this scribe's hand on a letter subscribed «Marcellus», might easily believe that it was Adriani who wrote out the letter from the Ten to Vettori on 12 November 1513, although that would still not explain the puzzling subscription «N. Mach(e)l.».

The letters Vettori received from Florentine magistracies are preserved in several thick and nearly complete *filze*, now among the archive's *Acquisti e doni*, that were acquired in 1968 from Sotheby's as part of the sale of the Phillips Collection<sup>83</sup>. Among the letters sent to Vettori by the Ten we find missives dated 8, 9, 10, 14 and 18 November and so forth, from both earlier and later dates<sup>84</sup>. It is reasonable to suppose that the letter of 12 November that ended in the Borromeo Archive was at some point removed from the *filza* that contained the other letters. These hundreds of letters to Vettori form a collection that is otherwise remarkably intact. Since there is little in the content of the 12 November letter that would attract anyone's interest, it seems almost certain that the unusual subscription, «N. Mach(e)l.», was what aroused someone's curiosity and resulted in the letter's separation from the Vettori archive, probably in the late eighteenth or early nineteenth century.

A closer look at the other letters Vettori received from the Ten reveals that the «N. Mach(e)l.» on the Borromeo letter differs only slightly from what would have been the appropriate chancery subscription. When this same scribe inserted the subscription for Machiavelli's successor as Secretary of the Ten, Niccolò Michelozzi, the subscription was nearly identical but rendered as «N. Mich(e)l.». [See Figures 5-7, and compare Figure 4]<sup>85</sup>. In its abbreviated form, Michelozzi's name was obviously similar to Machiavelli's. Comparison with three of this scribe's Michelozzi subscriptions reveals that all that the scribe did was to fail to dot the «i», and then, at a subsequent moment, he returned his quill to connect the two stems of the «i» at bottom, thus forming an irregular, but unmistakeable «a». Since the third stroke of the «a» did not belong to the natural flow of the subscription, the «a» would appear to be intentional, rather than an accidental turn of the quill pen.

<sup>82</sup> See, for an example of the same chancery hand, BNCF, *Carte Machiavelliane*, III, n. 76, Ten of Liberty and Balìa to NM, 13 October 1502, with the subscription «Marcellus». The letter is published in *Opere* (Vivanti), II, p. 647-648.

<sup>83</sup> ASF, *Acquisti e doni* [henceforth: AD], 352-358. Vanna Arrighi kindly supplied this information.

<sup>84</sup> ASF, AD, 353, c. 159r (8 November 1513), c. 161r (9 November 1513), c. 163r-v (10 November 1513), c. 165r (14 November 1513), c. 169r (18 November 1513).

<sup>85</sup> ASF, AD, 353, c. 48r, Ten to FV, 7 February 1513/4; c. 51r, Ten to FV, 8 February 1513/4; c. 80r, Ten to FV, 11 March 1513/4. The hypothesis, somewhat farfetched, that the Borromeo letter may have been stolen and tampered with to be made to look like a Machiavelli autograph is all the more unlikely given that these subscriptions, which could have been similarly altered, too, were not separated from the original *filza*.

The difference between a scribe's «i» and an «a», appearing in a single letter, is so small that it might hardly seem worth the trouble of examining. It could have resulted from a psychological, if not a mechanical slip. Possibly it was a small act of rebellion against Michelozzi, the scribe's new boss, who was imposing a rigor in record-keeping evident in the very text of the letter to Vettori, with its emphasis on «good practice». Michelozzi himself had written the draft, preserved in the «minutario», from which this scribe copied out the Borromeo letter<sup>86</sup>.

But we know from other Renaissance contexts that even the slightest marks in chancery letters could be ways of sending messages<sup>87</sup>. Machiavelli was moreover still a person who had come under official suspicion. In his letter of 10 December he feared that if he met the Soderini in Rome, when he returned to Florence he would go straight to prison, «perché... questo stato... è nuovo, e per questo sospettoso»<sup>88</sup>.

What makes the subscription to the Borromeo letter so especially interesting are three factors: (1) The letter's recipient was Machiavelli's friend and patron, Francesco Vettori. (2) The letter was produced in the very chancery office that Machiavelli had directed for 14 years. (3) The date, 12 November 1513, was only two days after the completion of Machiavelli's *relegatio*. Perhaps – just perhaps – the subscription altered to «N. Mach(e)l.» represented a way for one of Machiavelli's chancery friends to confirm to Vettori in Rome that the confinement had ended uneventfully. Machiavelli was in official good standing and able to leave the dominion from 10 November. We know that Vettori received the letter from the Ten with its curious subscription on 18 November<sup>89</sup>. On 23 November Vettori, who had been out of touch with Machiavelli since August, at last sent his friend a long, warm letter, inviting him to visit him in Rome. And, on 10 December 1513, Machiavelli replied with his famous letter. That letter's opening words, «Tarde non furon mai grazie divine» [Divine favors were never late], are a comment not so much on the completion of the *relegatio* (which occurred one month earlier), but on the arrival of Vettori's letter and invitation after more than three months of silence.

#### 7. Machiavelli's *coadiutori*: Antonio and Girolamo della Valle and Luca Fabiani

The identity of the scribe who wrote the Borromeo letter is thus of some interest. To identify him required compiling a series of autographs of each of the six *coadiutori* serving the Ten of Balìa in the autumn of 1513<sup>90</sup>. It turns out

<sup>86</sup> ASF, DBLC, 38, fol. 326v (pencil), in Michelozzi's hand.

<sup>87</sup> V. Ilardi, *Crosses and Carets: Renaissance Patronage and Coded Letters of Recommendation*, in «American Historical Review», 92 (1987), p. 1127-1149.

<sup>88</sup> NM to FV, 10 December 1510, in *Opere* (Vivanti), II, p. 296.

<sup>89</sup> See note 77 above.

<sup>90</sup> I am delighted to acknowledge the assistance of Francesca Klein of the Archivio di Stato di Firenze.

that he was not one of the friends in the chancery who are better known from Machiavelli's correspondence. He was not Agostino Vespucci or Giovanni da Poppi<sup>91</sup>.

Nor was the scribe of the Borromeo letter the same as the person who wrote a letter to Machiavelli about which there has been much speculation, signed «compater vester» and dated 29 August 1510<sup>92</sup>. Ridolfi once hypothesized that this was Marcello Virgilio Adriani or Pier Soderini<sup>93</sup>. Bertelli preferred to describe it as a letter from an unknown friend in the chancery<sup>94</sup>. In the first part of the letter the writer tells Machiavelli (away on an embassy in France) about his family:

Carissimo Nicolò. Questi di cancelleria non hanno paura d'una penna, ma l'arebbono bene d'uno remo. E se non ti hanno raguagliato del termine in che si truovono tutte le cose tue, è stato perché non nessuno vuole fare quello che non se li apartiene. Mogliata è qui, et è viva; e' figliuoli vanno al lor piede; della casa non si è visto il fine et al Percussino sarà magra vendemmia. E questo è dove tu ti truovi<sup>95</sup>...

[Dearest Nicolò. These scribes in the chancery are not afraid of a pen, but they would certainly be afraid of an «oar»<sup>96</sup>. If they have not told you about all your affairs, it is because no one wants to do what is not his work. Your wife is here and alive. Your children are walking on their own, your house is not yet finished, and there will be a poor harvest at Percussina...]

The second part of the letter discusses political matters (hence Ridolfi's suggestion that the writer might have been Soderini) and the political section is in cipher. A comparison of this hand with the hands of the chancery *coadiutori* in 1513 reveals that the scribe was a young man who in 1510 was not yet employed in the chancery but who would soon have a job there. The scribe of the «compater vester» letter was Girolamo della Valle, the son of the long-time chancery *coadiutore* Antonio della Valle<sup>97</sup>. The sender, which is to say the «compater» of the signature, must have been Girolamo's father, Antonio, who would have dictated the letter to his son. Antonio della Valle had been in the Florentine chancery since the 1480s, where he was a protégé of Bartolomeo Scala and thus one of the «new men» whom Scala promoted in Florentine society<sup>98</sup>. Della Valle had worked closely with Machiavelli for many years, and he is mentioned frequently in Machiavelli's letters. When Antonio died in 1511, his son Girolamo

<sup>91</sup> On Machiavelli's friendship with Vespucci, see J. M. Najemy, *The Controversy Surrounding Machiavelli's Service to the Republic*, in *Machiavelli and Republicanism*, ed. G. Bock, Q. Skinner, M. Viroli, Cambridge 1990, p. 101-117 (112, 114-5). On Giovanni da Poppi, see Guidi, *Un segretario* cit., p. 145, 345-347; and Arrighi and Klein, *Aspetti* cit., p. 154.

<sup>92</sup> The original is in BNCF, *Nuovi acquisti*, 1004, fol. 66r. See also *Lettere* (Gaeta 1984), p. 339-340; *Opere* (Vivanti), II, p. 219-220.

<sup>93</sup> R. Ridolfi, *Le carte* cit., p. 9 n. 19.

<sup>94</sup> Bertelli, *Appunti* cit., p. 549: «un amico di Cancelleria».

<sup>95</sup> *Opere* (Vivanti), II, p. 219.

<sup>96</sup> Of being sentenced to row in a galley.

<sup>97</sup> For Girolamo della Valle's hand, see ASF, *Notarile antecosimiano* [henceforth: NA], 9869.

<sup>98</sup> Brown, *Bartolomeo Scala* cit., p. 205 et *passim*; V. Arrighi, *Della Valle, Antonio*, in *Dizionario biografico degli italiani*, Roma 1961-, XXXVII, p. 724-726.

was hired in his place one week later, presumably on Machiavelli's recommendation<sup>99</sup>. It is likely that Antonio either dictated the letter to his son, or that he provided him with a draft so that he could make a fair copy, including the large section in cipher. It was a way of preparing Girolamo for chancery work and of demonstrating to Machiavelli how the young man could be put to use.

But the scribe whose hand appears on the letter from the Ten to Vettori of 12 November 1513 was *not* Girolamo della Valle, even though this same Della Valle was, for instance, the scribe who copied the letter from the Ten to Vettori that immediately preceded the Borromeo letter and was sent from Florence on 10 November 1513<sup>100</sup>. The copyist of the letter to Vettori of 12 November was instead a longtime *coadiutore* of the Ten named Luca Fabiani<sup>101</sup>.

Like the older Antonio della Valle, Ser Luca Fabiani had been brought into the chancery under the auspices of Bartolomeo Scala<sup>102</sup>. Originally from the town of Montegonzi, near Montevarchi, Fabiani had worked from his youth as one of the principal copyists of Marsilio Ficino, in whose house he lived down to the latter's death. Fabiani was recorded affectionately in Ficino's testament<sup>103</sup>, and so closely was he associated with him that he used the surname «de Ficinis» or «Fecino», although there is no firm evidence of kinship with the Ficino family<sup>104</sup>. Among the chancery's *coadiutori* Fabiani gives the impression of being an especially efficient a copyist. Thus, on 20 October 1500, in a letter from Agostino Vespucci to Machiavelli, there is a humorous passage about some troubles that Fabiani had been having, but Vespucci concludes with high praise: «Scis etenim ipse quantopere fide et taciturnitate valeat, quantumve in scribendo velociter et concinne literarum caracteres exprimat...»<sup>105</sup>. [You know yourself his trustworthiness and tact, and how quickly and elegantly he makes his letters. On 22 November 1511, Ser Luca was one of the chancery scribes who witnessed Machiavelli's testament.]

Fabiani has so far attracted little attention from historians of the chancery, but he fits splendidly the pattern described by Robert Black, whereby non-Florentine citizens from the dominion, who had strong humanistic skills and background but little interest in factional politics, became dominant in the chancery in the second half of the fifteenth century<sup>106</sup>. It is not

<sup>99</sup> Arrighi, *Della Valle* cit., p. 724-726.

<sup>100</sup> ASF, AD, 353, fol. 163r-v.

<sup>101</sup> For autographs of Fabiani's, see ASF, NA, 21350, no. 23, 2 September 1516; and the illustration in P.O. Kristeller, *Studies in Renaissance Thought and Letters*, 4 vols., Roma 1956-1996, III, plate XVI.

<sup>102</sup> Brown, *Bartolomeo Scala* cit., p. 189, 297n.

<sup>103</sup> P.O. Kristeller, *Supplementum Ficinianum*, 2 vols. Firenze 1937, II, p. 195-196.

<sup>104</sup> For his career and biographical information, see S. Gentile, *Note sullo «scrittoio» di Marsilio Ficino*, in *Supplementum Festivum: Studies in Honor of Paul Oskar Kristeller*, ed. J. Hankins, J. Monfasani, F. Purnell, Jr., Binghamton 1987, p. 33-397 (361-397). «Fabiano» was the name of Luca's father, and it appears from recent research that the name of the family in Montegonzi was «Capuccioni».

<sup>105</sup> Agostino Vespucci to NM, 30 October 1500, in *Opere* (Vivanti), II, p. 30.

<sup>106</sup> R. Black, *Machiavelli, Servant of the Florentine Republic*, in *Machiavelli and Republicanism* cit., p. 71-99.

known that Fabiani had any special reason for sending Vettori a message about the completion of the term of Machiavelli's *relegatio*. All that can be said is that he had worked under Machiavelli for many years and undoubtedly knew him quite well. By 1513 he was probably the oldest of the Ten's *coadiutori*. As we have already seen, in 1513 he was one of two chancery scribes charged with compiling a register of the Republic's treaties and agreements<sup>107</sup>. Certainly he had the experience and the skill to manage something like the discreet changing of an «i» to an «a» in a way that was barely noticeable.

Yet it need not have been the case that Fabiani acted on his own initiative. We have already noticed the letter's reference to «private persons» («privati») who made use of the Ten's couriers for their correspondence. The passage may well have been an oblique way of referring to none other than Machiavelli, who would have been one of these «privati». And if that was what was intended, then it matters that the letter, which in its draft form in the chancery «minutario» already included the phrase about «privati», was composed not by Fabiani, but by his boss, who was none other than Niccolò Michelozzi. (See above at note 86). There is no evidence of hard feelings between Machiavelli and Michelozzi. Machiavelli's letter to Vettori of 19 December 1513, written only shortly afterward, mentions Michelozzi in a way that indicates possible familiarity. Perhaps Machiavelli's friends in the chancery of the Ten were trying to do him a favor by encouraging Vettori to write.

#### 8. *Ovid as a «minor poet»*

One final puzzle in the series of puzzles addressed by this study concerns Machiavelli's mention of the poets that he liked to read during his mornings at Sant'Andrea. Machiavelli writes:

Partitomi del bosco, io me ne vo a una fonte, et di quivi in un mio uccellare. Ho un libro sotto, o Dante o Petrarca, o un di questi poeti minori, come Tibullo, Ovidio et simili: leggo quelle loro amorose passioni et quelli loro amori, ricordomi de' mia, godomi un pezzo in questo pensiero<sup>108</sup>.

[When I have left the wood, I go out to a spring, and from there to a birding site of mine. I have a book under my cloak, either Dante or Petrarch, or one of these minor poets: Tibullus and Ovid and ones like them. I read of those amorous passions of theirs and of their loves, I remember my own, and I delight for a while in these thoughts].

The passage is memorable for what it tells us about Machiavelli's taste in poetry, and also for what it does not tell us. The invocation of Dante anticipates the quotation from *Paradiso* that will appear a few sentences later: «ché non fa scienza sanza lo ritener lo aver inteso». The mention of Petrarch looks back to the letter's opening line from the *Triumph of Eternity*: «Tarde non furno mai gratie divine». A possible distinction between «quelle loro

<sup>107</sup> See above at note 63.

<sup>108</sup> *Lettere* (Inglese), p. 194.



amoroze passioni» and «quelli loro amori» suggests differentiation between the idealized «loves» of Dante and Petrarch for Beatrice and Laura and the «amorous» trysts and romantic adventures and misadventures of Tibullus and Ovid. The passage seems finely phrased – but for the odd characterization of Ovid as a «minor» poet. Tibullus has always been considered a minor poet, of course, but not Ovid. In the Middle Ages Ovid's reputation was second only to Virgil's. Dante includes Ovid along with the greatest pagan poets – Homer, Horace, and Lucan in Canto IV of the *Inferno*. What Machiavelli does not tell us is why he considered Ovid, one of the poets cited most often in his writings, to be «minor».

Examination of the late fifteenth and sixteenth-century printed editions might be thought to offer a clue. Perhaps Ovid was “minor” only in the sense that volumes of his poetry tended to be smaller in size? But in fact this leads nowhere, since Ovid was published in folio and quarto volumes and the range of formats was no different from those in which Dante and Petrarch were published. John Najemy offers no firm solution, but he points out that Ovid's place in the curriculum declined somewhat during the Renaissance. He also notes that Ovid's poetry was included in the elementary schoolbooks of the young (of *minores*)<sup>109</sup>.

Probably a path to the answer is to be found in Machiavelli's unusual placement of Tibullus before Ovid. Machiavelli is suggesting that the Ovid who is «minore» is the Ovid whose verse is most like that of Tibullus. In other words, when Ovid wrote erotic verse that can be compared to Tibullus' compositions he was writing verse that was «minore», that, in the context of the 1513 letter, was lesser than the *volgare* poetry of Dante and Petrarch. What Machiavelli clearly has in mind of Ovid's are his *Amores* and especially the *Ars amatoria*.

Knowing that Machiavelli was reading Tibullus and Ovid at the time he was writing *The Prince*, it is perhaps worth thinking about ways in which these poets may have influenced that work. The passage on «Fortuna» at the end of Chapter 25 comes immediately to mind. There Machiavelli writes:

Io iudico bene questo, che sia meglio essere impetuoso che rispettivo, perché la Fortuna è donna, e è necessario, volendola tenere sotto, batterla e urtarla; e si vede che la si lascia più vincere da questi che da quelli che freddamente procedano e però sempre, come donna, è amica de' giovani, perché sono meno rispettivi, più feroci e con più audacia li comandano<sup>110</sup>.

[Yet, I judge the following: that it is better to be impetuous than cautious, for Fortune is a lady, and it is necessary, if one wants get on top of her, to beat her and to dash her down. And one sees that she lets herself be won more by these men than by those who proceed coldly. For this reason, as a lady, she is always the friend of the young, because they are less cautious, more ferocious, and the they command her with more audacity].

<sup>109</sup> Najemy, *Between Friends*, p. 231-232 n. 24.

<sup>110</sup> *Il Principe* (Martelli), p. 310 (25.26-27).

Scholars commenting on this passage have inevitably turned to the long literary tradition, dating back to the Greeks, that treated Fortune as temperamental woman who could be charmed or seduced<sup>111</sup>. Already in a marginal note to the Ghiribizzi of 1506 Machiavelli advised, «Tentare la Fortuna, che la è amica de' giovani...» [Test Fortune, since she is a friend to the young...]. Commenting on Chapter 25 of *The Prince*, Inglese cites Cicero to the effect that the maxim «fortes Fortuna adiuvat» was already ancient in the orator's day<sup>112</sup>. Martelli thinks that Machiavelli adheres to the proverbial «Audaces Fortuna iuvat»<sup>113</sup>. Yet there is a violent eroticism in Machiavelli's discussion of Fortuna that these scholars overlook. Machiavelli takes up the traditional proverb, to be sure, but he gives it a very hard twist.

Remarkably, there are two passages in the «minor poets» that Machiavelli was reading at Sant'Andrea in Percussina that illuminate what Machiavelli was doing with the image of Fortune in Chapter 25 of *The Prince*.

Thus Tibullus (1.2.15-17) adapts the traditional proverb, «fortes Fortuna adiuvat», so that it is not Fortune but *Venus*, the goddess of erotic love, who aids the strong and favors the young:

audendum est: fortes adiuvat ipsa Venus.  
illa favet seu quis iuvenis nova limina temptat  
seu reserat fixa dente puella fores<sup>114</sup>.

[Be bold! Venus herself aids the strong. She helps whenever a young man crosses a new threshold, or a girl lifts back the bar on her door].

Meanwhile Ovid, in the *Ars amatoria* (1.665-666,669-670,673-678), offered Machiavelli a strong description of the use of violence in love, and how force wins over the beloved:

Pugnabit primo fortassis, et «improbe» dicet:  
Pugnando vinci se tamen illa volet.  
...  
Oscula qui sumpsit, si non et cetera sumet,  
Haec quoque, quae data sunt, perdere dignus erit.  
...  
Vim licet appelles: grata est vis ista puellis:  
Quod iuvat, invitae saepe dedisse volunt.  
Quaecumque est veneris subita violata rapina,  
Gaudet, et improbitas numeris instar habet.  
At quae cum posset cogi, non tacta necessit,  
Ut simulet vultu gaudia, tristis erit<sup>115</sup>.

<sup>111</sup> H.R. Patch, *The Goddess Fortuna in Mediaeval Literature*, Cambridge Mass. 1987.

<sup>112</sup> *Il Principe* (Inglese), p. 167 note.

<sup>113</sup> *Il Principe* (Martelli), p. 310 n. 56.

<sup>114</sup> Tibullus, 1.2.15-17, in *Catullus, Tibullus, Pervigilium Veneris*, ed. G.P. Goold, Cambridge Mass. 1988<sup>2</sup>, p. 198. See also P. Lee-Stecum, *Powerplay in Tibullus: Reading «Elegies» Book One*, Cambridge 1998, p. 72-86.

<sup>115</sup> Publius Ovidius Naso, *Ars amatoria*, 1. 665-666, 669-670, 673-678, in Ovid, *The Art of Love and Other Poems*, ed. G.P. Goold, Cambridge Mass. 1979<sup>2</sup>, p. 58.

[Perhaps she will struggle at first, and cry, «You degenerate!»]. But she will wish to be beaten in the struggle. ... He who has taken kisses, if he does not take the rest, will deserve to lose even the kisses that were given. ... You may use force; women like you to use it; they often wish to give unwillingly what they like to give. She whom a sudden assault has taken by storm is pleased, and counts the audacity as a compliment. But she who, when she might have been compelled, departs untouched, though her looks feign joy, will yet be sad].

In the famous passage concerning Fortune at the end of Chapter 25 of *The Prince* Machiavelli has performed something quite revolutionary by grafting the erotic energy he found in these minor poets onto the far more traditional theme of Fortune as a woman who is changeable.

Perhaps it would be appropriate to conclude this study of a series of problems in the letter of 10 December 1513 by proposing that Machiavelli's pointed mention of Tibullus and Ovid in his letter to Vettori provides a reasonably secure indication that by that date he had already composed his Chapter 25 on the problem of Fortuna. Thus by 10 December 1513 it seems likely that *The Prince* comprised not only chapters 1-11, as Meinecke once argued, but also chapters 15-19 on the moral qualities of the prince, as already suggested above<sup>116</sup>, and, finally, Chapter 25, which indeed might have been thought – at one stage in the process of composition – a suitable, and powerful conclusion to Machiavelli's famous treatise *De principatibus*.

Much work remains to be done on Machiavelli's *carteggio*, including the famous letter to Vettori. The foregoing study suggests that many of the texts of Machiavelli's letters that we have had are of better quality than scholars have imagined. Detailed study of the letters' contents and context has revealed much new information about Machiavelli and his circumstances in 1513. It suggests that the correspondence may yet have a great deal more to tell us about Machiavelli and the composition of his major works.

<sup>116</sup> See above at note 35.

*Appendix*

Archivio privato Borromeo di Isola Bella, Acquisizioni diverse, «F», Firenze, Ten of Balia to Francesco Vettori, 12 November 1513.

[*Recto:*]

[*Hand of Luca Fabiani :*]

Mag.ce Orator etc. Questa fia più per buono uso che per alchuno bisogno che ne occorra, non havendo cosa alchuna da scriverti, né adviso da alchuna banda. Fu l'ultima nostra de' x et l'ultime che habbiamo da te sono de' v, et non havendo dipoi altro da te stimiamo che non habbi havuto che scrivere, come non habbiamo anchor noi. Pure non si vogliono obmettere le buone consuetudini di scrivere spesso, et quando bene non accaggia cosa che importi, scrivere almeno de' 3 o 4 di una volta, che serviva questo offitio almeno a' privati che scrivono per questa via. Ultimamente ti si scripse il rumore che ne era capitato alli orecchi delle cose de Carfagnana. Harai havuto la lettera et factone la diligentia che ti si commisse et che merita la cosa & advisatone.

Per via di Ferrara s'intende che lo exercito spagnuolo viene nel Pulesine di Rovigo in luogo di andare in Trevisana o Friuoli, & per esser più vicino a Ferrara sene doverrà intendere più spesso advisi.

La Santità di N.S. doverrà esser tornato di verso Civitavecchia & la recreatione & l'aria doverrà haverli giovato. Advisane di questo & d'ogn'altra cosa.

Bene vale. Ex Palatio Florentino. Die xij Novembris MDXij.

Decemviri}

Balie} Rei p[ubli]cę Florentine.

N. Mach(e)l.

[*Verso:*]

[*Hand of Luca Fabiani:*]

[Orato]ri Florentino apud

Pont[ificem]. Francisco [de Victorijs]

Concivi nostro Char.mo.

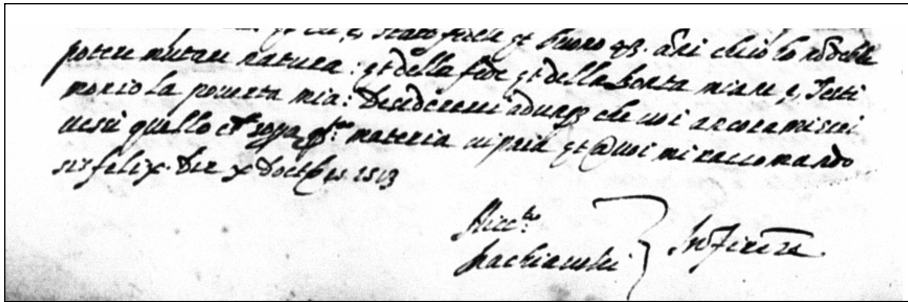
Rome.

[*Hand of Francesco Vettori:*]

Die xij novembris.

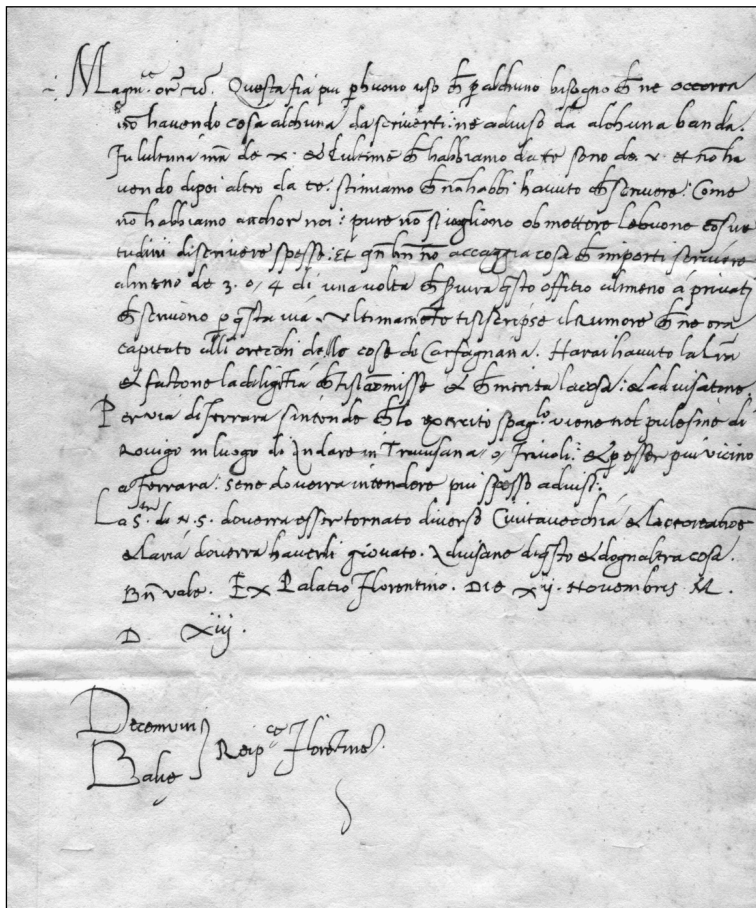
[*Unknown nineteenth-century hand:*]

Autografo di Marcello Adriani, in nome di Macchiavello.



... stato fatto et fatto 10. die x D  
 poteri alcuni natura: et della fare et della bonta mia, et tutti  
 pario la potesta mia: Desidero adunque che mi accada mi vici  
 nese quello et ogni et natura in pace et ogni mi raccomando  
 in felice die x Decembris 1513  
 Niccolò Machiavelli } Inferia

Figure 1. The signature on the copy of Machiavelli's letter to Francesco Vettori, 10 December 1513, preserved in the *Apografo Ricci*, Biblioteca Nazionale Centrale di Firenze, Ms. Palatino, E.B.15.10, fol. 151v: «... Die x D oct.bris 1513. Nicc:<sup>lo</sup> Machiavelli. In Firenze». [Photograph reproduced by permission of the Ministero per i Beni Culturali e Ambientali].



Magnifico. Questa sia piu buono uso et habbino bisogno et ne occorra  
 so hauendo cosa alcuna da spuntare in aduso da alcuna banda  
 fulubruna ma da x. et ultimo et habbiamo dato loro da x. et ne ha  
 uondo dopo altro da te. finiamo et ne habbi. hauuto et finiamo. Como  
 ne habbiamo anchor noi: pure ne spuntano et mettano la buona et us  
 tuanti di finiamo spunt. Et qn bn ne accagga cosa et imperti finiamo  
 almeno da 3. o 4 di una volta et pura qto offra almeno a privati  
 et finiamo qto ma et ne maneto in tempo et numero et ne ora  
 caputo all' orcedi dello cosa et caraffman. Hara hauuto la bon  
 et habbono la diligitia et finiamo et finiamo la cosa. et la finiamo.  
 Per via di Ferrara finiamo et lo parato spag. viene not. puo fino di  
 dougo in luogo di indaro in Transfana et finiamo. et qto finiamo  
 a Ferrara. sono dougo intendo piu spunt. aduso.  
 La s. de x. s. dougo off. tornato di uero. Cuita uero et la cosa et  
 la uero dougo hauuto. et finiamo. et finiamo. et finiamo. et finiamo.  
 In vobis. Ex Palatio Florentino. Die xij. Nouemb. 1513.  
 D. Luj.

Decembris  
 Balio } Romae Florentino

Figure 2. Archivio Borromeo di Isola Bella, Acquisizioni diverse, «F», Firenze, Letter of the Ten of Balìa to Francesco Vettori in Rome, 12 November 1513, *recto*. Hand of Luca Fabiani. [Photograph reproduced by permission of the Principi Borromeo-Arese].

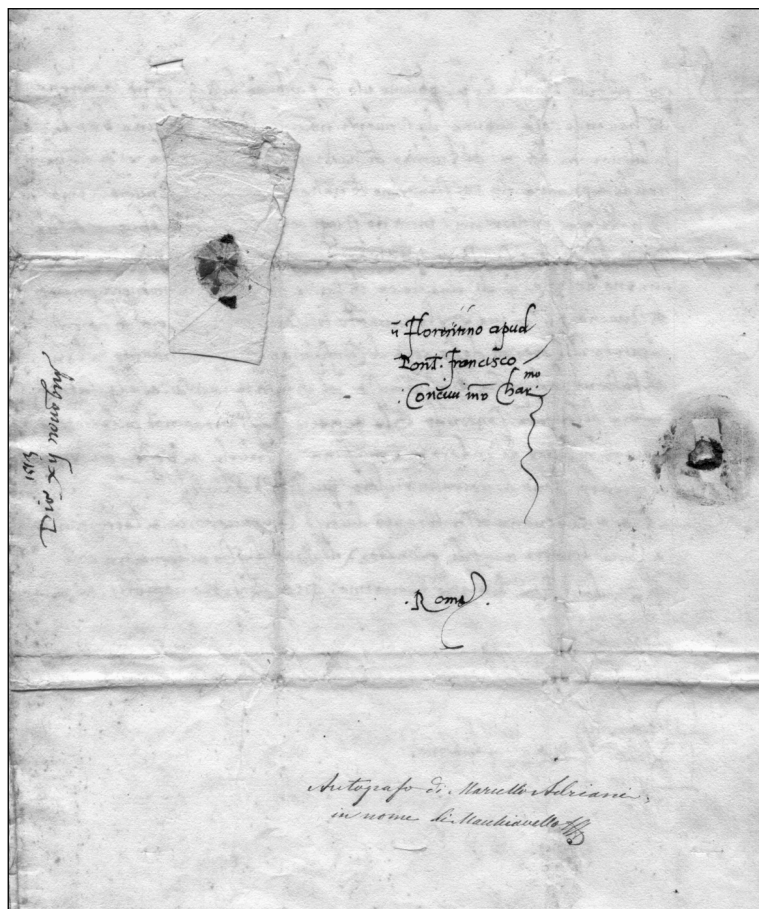


Figure 3. Verso of Figure 2.

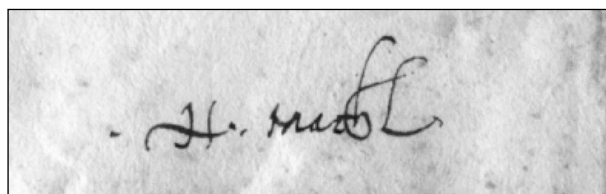


Figure 4. Detail of Figure 2. Subscription: «N. Mach(e)l.». Hand of Luca Fabiani.

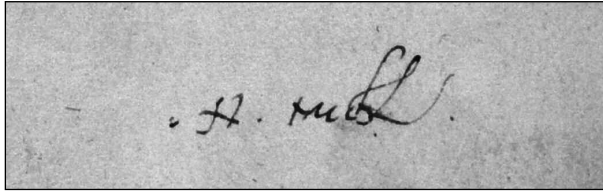
A photograph of a handwritten signature in black ink on a piece of aged, slightly textured paper. The signature is written in a cursive hand and reads "N. Mich(e)llozzi".

Figure 5. Subscription of Niccolò Michelozzi: «N. Mich(e)l.». Letter of the Ten of Balìa to Francesco Vettori, 7 February 1513/4, in ASF, *Acquisti e doni*, 353, fol. 48r. Hand of Luca Fabiani. [Photograph reproduced by permission of the Ministero per i Beni Culturali e Ambientali].

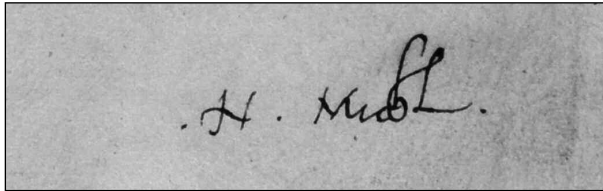
A photograph of a handwritten signature in black ink on a piece of aged, slightly textured paper. The signature is written in a cursive hand and reads "N. Mich(e)llozzi".

Figure 6. Subscription of Niccolò Michelozzi. Letter of the Ten to Vettori of 8 February 1513/4, ASF, *Acquisti e doni*, 353, fol. 51r. Hand of Luca Fabiani. [Photograph reproduced by permission of the Ministero per i Beni Culturali e Ambientali].

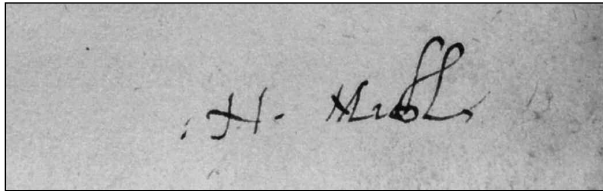
A photograph of a handwritten signature in black ink on a piece of aged, slightly textured paper. The signature is written in a cursive hand and reads "N. Mich(e)llozzi".

Figure 7. Subscription of Niccolò Michelozzi. Letter of the Ten to Vettori of 11 March 1513/4, ASF, *Acquisti e doni*, 353, fol. 80r. Hand of Luca Fabiani. [Photograph reproduced by permission of the Ministero per i Beni Culturali e Ambientali].





## ***Le seigneur et la ville : sur quelques usages d'un dialogue (Italie, fin du Moyen Âge)***

par Elisabeth Crouzet-Pavan

Sans doute est-ce seulement dans l'ordre de l'imaginaire que les rapports entre le pouvoir et l'espace urbain peuvent se construire en pleine harmonie. Dans cet ordre, l'espace est vierge ou docile, le pouvoir tout puissant et sa capacité d'invention et d'appropriation infinie. Autant donc de récits de fondation qui rejouent au gré des circonstances, selon les besoins de légitimation ou de consensus, l'histoire des origines et la rencontre du héros fondateur avec la ville qu'il va faire naître. Autant d'images encore qui inventent et pacifient, qui transposent et idéalisent, qui racontent l'histoire rêvée de la communauté et de ses monuments emblématiques. De ces réinventions, les seigneurs italiens usèrent pleinement. Souvent en effet, il leur fallait s'inventer une durée. Ou, si elles étaient pourvues du lustre de l'ancienneté aristocratique, c'est un ancrage à leur ville de résidence que ces familles, d'abord liées au *contado*, devaient créer par les mots des chroniques ou les thèmes de la représentation iconographique. En égrenant les exemples, l'analyse pourrait être conduite. Elle permettrait de comprendre selon quels rythmes et quelles modalités d'un discours en fabrication continuée un dialogue imaginaire se tissa entre le seigneur et sa ville capitale. Un dialogue imaginaire qui atteignait peut-être l'un de ses points d'équilibre lors des cérémonies, réelles ou fictives, de pose d'une première pierre<sup>1</sup> dont l'objet était de dire comment le sol, accueillant, s'ouvrait aux fondations, comment, par ce geste, le seigneur

<sup>1</sup> On sait que la tradition inventa pour ce qui est du Dôme de Milan la cérémonie fictive de la pose d'une première pierre par Giangaleazzo Visconti. Il est vrai que les rapports du seigneur de Milan avec le Conseil de la fabrique furent souvent difficiles, et un monument qui avait été conçu comme une entreprise de glorification dynastique servit finalement à l'illustration de la ville : G. Soldi Rondinini, *La fabbrica del Duomo come espressione della spirito religioso e civile della società milanese (fine sec. XIV-sec. XV)*, in G. Soldi Rondinini, *Saggi di storia e storiografia visconteo-sforzesche*, Bologna 1983, pp. 49-64 ; Ph. Braunstein, *Les débuts d'un chantier : le Dôme de Milan sort de terre (1387)*, in *Travail et entreprise au Moyen Âge*, Bruxelles 2003, pp. 373 et suiv., qui montre bien comment l'entreprise voulue par le prince et l'archevêque est prise en main par la Fabrique ; P. Boucheron, *Le pouvoir de bâtir. Urbanisme et politique édilitaire à Milan (XIV<sup>e</sup>-XV<sup>e</sup> siècles)*, Rome 1998, pp. 178 et suiv.

lançait un chantier qu'il avait voulu et projeté tandis que tous autour de lui communiaient dans la joie du monument à naître... Un dialogue imaginaire d'autant plus nécessaire que les nouveaux pouvoirs seigneuriaux s'installèrent dans un espace urbain qui était loin d'être vierge. On le sait, par des chantiers cumulés, des transformations fonctionnelles et esthétiques, les pouvoirs communaux avaient inscrit les marques de leur légitimité, fortement et durablement, dans le paysage de la ville italienne et ils avaient ainsi facilité l'établissement et la pratique de leur pouvoir. Suivant une dynamique qui s'accéléra, l'autorité publique avait aussi dispensé des règles nouvelles d'organisation et d'utilisation de l'espace et ces dernières, bientôt plus contraignantes et générales, même si ces politiques urbaines connurent des pauses et des échecs, avaient modifié le territoire bâti et non bâti et les pratiques des hommes<sup>2</sup>. Surtout, ces régimes communaux, avec la construction des différents palais publics mais aussi par l'aménagement du système des grands espaces publics, en faisant naître des monuments et des places destinés à résister au temps, avaient eu le dessein d'énoncer au cœur de l'espace urbain que l'ordre politique voulait et devait être un ordre de la durée.

Entre la ville et le seigneur, il put donc se nouer, dans l'Italie des derniers siècles du Moyen Âge, un dialogue imaginaire, aussi serein qu'il était compensatoire puisque dans cet ordre les actions du seigneur ne rencontraient ni résistances ni difficultés, et qui, même s'il ne sera pas spécifiquement étudié ici, représente comme l'horizon idéal, à ne jamais oublier, d'une histoire qui s'accomplit bien plus difficilement dans les briques, les pierres et le marbre, sur les places et dans l'ordonnancement des bâtiments, par les modifications du bâti et du décor. Cette histoire réelle s'écrivit bien sûr diversement à mesure qu'évoluaient les régimes seigneuriaux. Chronologiques, ses déclinaisons furent également géographiques. L'objet n'est pas de les saisir dans leur complexité, une seigneurie après l'autre, au gré de l'identité du seigneur<sup>3</sup> mais aussi du statut de la ville, cité capitale ou cité soumise de l'état territorial, puisque, trop souvent, ce dernier paramètre, pourtant essentiel, n'est pas pris en compte dans l'analyse. Il ne s'agit pas davantage de partir à la recherche de toutes les transformations urbanistiques par lesquelles s'exprima, dans le paysage urbain, le langage des nouveaux pouvoirs. Bien plus limité, le propos est de suivre un peu de l'évolution de certaines des résidences seigneuriales dans l'Italie des derniers siècles du Moyen Âge. Autrement dit, dans cette histoire longue, quelques questions seront plus précisément posées. Quel est le destin des anciens centres civiques ? Quels rapports la résidence seigneuriale entretient-elle avec les anciens sièges du pouvoir ? Comment comprendre le fait souvent répété de la construction d'un château urbain<sup>4</sup> ? Peut-on dans

<sup>2</sup> E. Crouzet-Pavan, *Enfers et paradis. L'Italie de Dante et de Giotto*, Paris (2001) 2004, pp. 66-78 et E. Crouzet-Pavan, *Villes vivantes. Italie. XII<sup>e</sup>-XV<sup>e</sup> siècle*, Paris 2009, chap. VI et VII.

<sup>3</sup> Il faudrait bien sûr distinguer les situations, variables selon que le seigneur est ou non étranger à la ville, membre d'une dynastie enracinée ou au contraire conquérant nouveau venu...

<sup>4</sup> On n'examinera donc pas ici le phénomène de l'*arroccamento* dans les cités soumises, toutes ces

la dialectique qui s'instaure repérer partout le travail d'une même dynamique ? Sélection des exemples, sélection surtout des villes parce que seules les cités centres seront considérées au sein de ces espaces politiques qui, du fait de leur échelle supracommunale, comptaient nombre de villes, si ce n'est soumises, en tout cas désormais intégrées dans un système politique de plus ample portée... Ainsi procède l'étude, par jalons successifs, ainsi est analysée une rencontre urbanistique trop souvent réduite aux termes d'un face-à-face hostile.

1. L'enquête peut démarrer avec un premier constat. Il s'observe d'abord souvent comme une ténacité des structures en place. Entre 1280 et 1330, partout dans l'Italie communale les chantiers urbains s'étaient succédés à un rythme soutenu<sup>5</sup>. De la ville alors produite, de sa configuration et de ses usages, les seigneurs ne peuvent aisément faire table rase. Rien n'est simple. L'espace a été fortement polarisé, les pierres sont là, elles font de la résistance, les pas et les habitudes des hommes aussi. D'où une première et longue prudence souvent des régimes seigneuriaux<sup>6</sup>. À Vérone ou à Mantoue, à Ferrare, à Trévise ou à Milan, les travaux publics, les entreprises d'embellissement ordonnées par les seigneurs concernent d'abord au XIV<sup>e</sup> siècle les lieux centraux de la cité<sup>7</sup>. Alors que survivent encore les institutions communales, ce n'est pas tout de suite que le seigneur abandonne sa résidence première pour s'installer loin du centre ancien et consommer, avec la construction d'un nouveau palais, un divorce urbanistique<sup>8</sup>. Bien au contraire. C'est au cœur de la ville, grâce à l'agran-

rocche que les Visconti édifièrent dans les villes soumises puisqu'il était de bonne politique d'imposer une citadelle à des cités volontiers rebelles (Parme, Plaisance, Crémone ou Côme) ou cette autre théorie de villes formée, dans les états de l'église, par Pérouse, Orvieto, Spolète, Viterbe, Assise ou Todi : A. Jamme, *Forteresses, centres urbains et territoires dans l'état pontifical. Logiques et méthodes de la domination à l'âge albornozien*, in *Pouvoir et édilité. Les grands chantiers dans l'Italie communale et seigneuriale*, dir. E. Crouzet-Pavan Rome 2003, pp. 375-417 ; M.G. Nico Ottaviani, *Rocche e fortificazioni nello stato della chiesa*, Perugia 2004 et pour l'Italie du Nord : N. Covini, *Aspetti della fortificazione urbana tra Lombardia e Veneto alla fine del medioevo*, in *Castel Sismondo, Sigismondo Pandolfo Malatesta e l'arte militare del primo Rinascimento* (Atti del Convegno di Rimini, 20-22 settembre 2002), dir. A. Turchini, Cesena 2003, pp. 59-77 (url < <http://fermi.univr.it/rm/biblioteca/scaffale/c.htm#Nadia%20Covini> >).

<sup>5</sup> Crouzet-Pavan, *Enfers et Paradis*, pp. 66-78 et Crouzet-Pavan, *Pour le bien commun. À propos des politiques urbaines dans l'Italie communale*, in *Pouvoir et édilité*, pp. 11-40.

<sup>6</sup> *La crisi degli ordinamenti comunali e le origini dello stato del Rinascimento*, dir. G. Chittolini, Bologna 1980.

<sup>7</sup> On peut encore citer, même si cette réalisation intervient sous le gouvernement de Cansignorio (1361-1375), l'embellissement à Vérone de la place du marché : V. Bertolini, *Cansignorio e la città marmorina*, in *Gli Scaligeri 1277-1387. Saggi e schede raccolti in occasione della mostra storico-documentaria*, dir. G.M. Varanini, Verona 1988, pp. 255-260. Pour autant, on se gardera bien de considérer que dans la deuxième moitié du XIV<sup>e</sup> siècle, l'appareil communal aurait été partout vidé de sa substance.

<sup>8</sup> G. M. Varanini, *Propaganda dei regimi signorili: le esperienze venete del Trecento*, in *Le forme della propaganda politica nel Duecento e Trecento*, dir. P. Cammarosano, Roma 1994, pp. 311-343. Il faut aussi citer, bien étudié par Rubinstein, le cas de Florence sous le duc d'Athènes qui commença à faire fortifier le complexe du palais des prieurs et qui avait le projet de créer en murant la place et la zone alentour une véritable citadelle : N. Rubinstein, *Fortified*

dissement et à l'aménagement du premier noyau de maisons familiales, que les Della Scala s'installent et qu'ils créent un système d'édifices et de jardins, au caractère clairement monumental dès les années 1330-1340<sup>9</sup>. La politique éditilaire seigneuriale souvent poursuit les entreprises plus tôt menées et ainsi les places civiques continuent-elles à être ornées, le système d'adduction d'eau ou le réseau viaire à être entretenu. Quant aux anciens sièges du pouvoir citadin, ils ne sont pas oubliés. En somme, le programme de magnificence que Galvano Fiamma théorise pour Azzone Visconti dans les années 1340<sup>10</sup> est destiné aussi à prendre corps dans ces lieux qui avaient été aménagés et ornés au nom du bien commun<sup>11</sup>. A moins qu'il ne crée de l'utilité publique en même temps qu'il orne la résidence seigneuriale : sur une tour de la *reggia* de Padoue, Ubertino da Carrare fait ainsi installer l'horloge de Jacopo Dondi, merveille technique du temps au bénéfice de la communauté<sup>12</sup>. C'est que le magnifique ne doit pas dépenser pour son propre avantage mais pour « la communauté »<sup>13</sup>. La continuité peut donc souvent être forte même si des innovations peuvent parfois concerner le système des fortifications, amélioré ou refait par ces régimes souvent agressifs et menacés.

Il est évident que la seigneurie entend, au bout du compte, s'approprier les lieux centraux, les espaces civiques, pour mieux les contrôler, les « digérer », tout comme elle entreprend de dénaturer à son profit les institutions communales qui demeurent en place. Mais cette première séquence révèle dans nombre de villes la rigidité des structures du bâti, la vigueur de la *forma urbis* agencée à l'âge communal comme la circonspection première de certains de ces seigneurs qu'une historiographie amante des images fortes se plut à décrire comme les auteurs de tous les coups de force, politiques ou architecturaux. Comme si, s'inscrivant dans des pratiques anciennes, se posant en défenseur des intérêts de la communauté, ces seigneurs voulaient s'emparer en fait aussi, au profit de leur pouvoir, d'une précieuse continuité historique.

*Enclosures in Italian cities under Signori*, in *War, Culture and Society in Renaissance Venice. Essays in Honour of John Hale*, dir. D.S. Chambers, C.H. Clough et M.E. Mallett, London 1993, pp. 1-8.

<sup>9</sup> M.M. Donato, *I signori, le immagini e la città. Per lo studio dell'immagine monumentale dei signori di Verona e di Padova*, in *Il Veneto nel Medioevo. Le signorie trecentesche*, dir. A. Castagnetti et G.M. Varanini, Verona 1995, pp. 381-454, pp. 384-385.

<sup>10</sup> L. Green, *Galvano Fiamma, Azzone Visconti and The Revival of the classical Theory of Magnificence*, in « *Journal of the Warburg and Courtauld Institutes* », 53 (1990), pp. 98-113 (« *ad magnificum principem decet facere magnos sumptus circa totam communitatem* »). Fiamma prenait appui sur Aristote, *Ethique de Nicomaque*, IV, chap. 2 : « La suite naturelle de notre sujet est, semble-t-il, la question de la magnificence; elle paraît être l'art d'employer les grandes richesses. Toutefois, à la différence de la générosité, elle ne s'étend pas à toutes les manières de faire usage de l'argent, mais à celles-là seulement qui concernent la dépense. Sur ce point, elle surpasse la générosité. En effet, comme le nom grec l'indique, il s'agit d'une dépense convenable dans la catégorie de la grandeur ».

<sup>11</sup> Crouzet-Pavan, *Pour le bien commun*, pp. 11-40.

<sup>12</sup> M.M. Donato, *I signori, le immagini*, pp. 385-386, et, de manière générale : B.G. Kohl, *Padua under the Carrara. 1318-1405*, Baltimore-London 1998.

<sup>13</sup> Aristote, *Ethique de Nicomaque*.

Il y a bien sûr des exceptions au premier rang desquelles il faut compter l'« Augusta », le château de Castruccio Castracani, construit en 1322, démoli en 1370 quand la liberté communale est restaurée, vaste ensemble fortifié qui enserme d'un fort mur, garni à suivre Villani de 29 grandes tours, près du cinquième du territoire urbain, une exception riche de significations puisque beaucoup y voient comme un modèle et une source d'inspiration, mais une exception qui est, je le souligne, riche de toutes les significations puisqu'il ne faut pas oublier que le « tyran » n'y résidait pas<sup>14</sup>.

2. Puis la rupture paraît plus souvent intervenir et c'est une deuxième séquence qui prend forme. Inutile de dire qu'il convient de la lier à l'évolution des régimes seigneuriaux dont le pouvoir s'est affermi<sup>15</sup>. Le principe héréditaire s'est, dans les crises, affirmé. La légitimation a été obtenue grâce à l'obtention du vicariat et seules les reconstructions des chroniques, ainsi à Ferrare, continuent tard dans le XV<sup>e</sup> siècle à faire comme si l'accession au pouvoir du nouveau seigneur résultait de la seule élection<sup>16</sup>. Les formes de gouvernement changent, la classe de gouvernement aussi et les études en soulignent le net rétrécissement, même si se sont d'abord parfois distingués, par le biais des clientèles liées au seigneur, quelques hommes nouveaux<sup>17</sup>. En Italie du Nord, à partir des années 1340, c'est bien un nouveau paysage politique qui a pris forme<sup>18</sup>. Entre la ville et le seigneur, une distance commence dans certains cas à s'instaurer. Toutefois, seule l'introduction d'incessantes nuances, dégagées ville par ville, permet de rendre compte de cette évolution, souvent décrite de manière aussi schématique que téléologique. A Vérone, Cangrande II décide de la construction, après le complot de Fregnano della Scala (1354), du château de San Martino in Aquaro (Castelveccchio) qui, grâce au pont sur l'Adige, pouvait aussi faciliter la fuite hors de la cité. Les liens puissants qui unissaient, depuis les origines de leur domination, les Della Scala, ce lignage seigneurial d'origine citadine, au milieu urbain, hommes et pierres, commenceraient donc à se défaire. A Padoue, Francesco il Vecchio fait restructurer en 1374 le château de San Tommaso qui est lié à la *reggia* par ce que l'on nomme le « traghetto »<sup>19</sup>. À

<sup>14</sup> L. Green, *Lucca under Castruccio Castracani. The Social and Economic Foundation of a Fourteenth-Century Italian Tyranny*, in « I Tatti studies », 1 (1985), pp. 137-155.

<sup>15</sup> Pour autant, on se gardera bien de considérer que dans la deuxième moitié du XIV<sup>e</sup> siècle, l'appareil communal aurait été vidé de sa substance.

<sup>16</sup> Qu'il s'agisse de l'investiture de Borso d'Este (*Diario ferrarese dall'anno 1409 sino al 1502 di autori incerti*, G. Pardi éd., Bologna, RIS<sup>2</sup>, XXIV/7, 1928-1937, 1450, p. 33) ou de celle d'Hercule : « Da tutto il popolo di Ferrara, suso il Palazzo de la Ragione da Ferrara, era stato electo Signore da Ferrara » (*Diario ferrarese*, 1471, p. 69).

<sup>17</sup> G.M. Varanini, *Gli Scaligeri, la classe dirigente veronese, l'élite internazionale*, in *Gli Scaligeri*, pp. 113-124.

<sup>18</sup> R. Manselli, *Il sistema degli stati italiani dal 1250 al 1454*, in *Comuni e signorie : istituzioni, società e lotte per l'egemonia*, Torino 1981 (Storia d'Italia diretta da G. Galasso, IV), pp. 61-136.

<sup>19</sup> Le moment est aussi difficile : conjuration familiale, guerre avec Venise... : G. Lorenzoni, *L'intervento dei Carraresi, la reggia e il castello*, in *Padova. Case e palazzi*, dir. L. Puppi et F. Zuliani, Vicenza 1978, pp. 38-48.

Ferrare, le château de San Michele, potentiel refuge pour la dynastie, est construit en 1385, après un violent épisode de contestation du pouvoir des Este. Dans cette ville, le siège du pouvoir, sur la place, était en effet voisin du Dôme et du Palais della Ragione et la famille seigneuriale avaient acquis maisons et terrains dans cette zone. A Mantoue, Bartolino da Novara, l'architecte à qui l'on doit le château de Ferrare, élève la forteresse de San Giorgio à partir de 1396. Aux marges de la cité, bâti près de l'enceinte, mais englobant l'ancienne demeure fortifiée du lignage, le nouveau castello, doté de fortes tours, montre comment cette famille entendait afficher une légitimité et un pouvoir liés à la tradition nobiliaire et militaire. Jusqu'alors, les Gonzague, suivant en cela l'exemple des précédents seigneurs de Mantoue, les Bonacolsi, avaient concentré leurs investissements fonciers mais aussi leurs projets de transformations morphologiques dans la *civitas vetus*. La place avait été transformée, à mesure que maisons et églises étaient démolies. Quant au palais, remodelé vers 1370 sous le règne de Ludovico, à partir d'édifices préexistants – la *Magna Domus*, le palais du Capitaine et diverses maisons – il formait une entité, un véritable complexe, principale résidence de la famille quand elle était à Mantoue. Autrement dit, les Gonzague avaient acquis la maîtrise symbolique du centre de la *civitas vetus*<sup>20</sup>. À Milan enfin, la forteresse de Porta Giovia était née de la guerre civile entre Bernabò et Galeazzo II Visconti (1355). Cette fortification, d'abord élevée à l'intérieur des murs, reçoit à partir de 1392 l'adjonction d'une citadelle hors les murs. Le chantier est poursuivi sous le duc Filippo Maria : la jonction de la forteresse et de la citadelle est réalisée, des salles d'apparat sont aménagées. Les ducs de Milan, à l'exemple de Giangaleazzo, n'avaient cependant pas attendu Filippo Maria pour se retrancher à l'occasion dans le château de Porta Giovia<sup>21</sup>.

Ainsi sont illustrées certaines des évolutions en cours. Mais, première observation, la chronologie de ces fortifications prouve bien qu'il ne faut pas tout mêler et qu'il importe de soigneusement distinguer entre la cité capitale et les cités soumises au sein de seigneuries territoriales dont on connaît, dans ces années, la fragilité et les recompositions géographiques permanentes. Un exemple suffit à attester cette diversité des fonctions de l'appareil défensif et donc des lectures à conduire. A Trévise, c'est en 1331 qu'une nouvelle fortification imposante est élevée par les Della Scala<sup>22</sup>. A Vicence, le château de porta San Felice est construit sous Mastino II et les Della Scala ne font que reprendre une politique de fortifications qu'avaient conduite avant eux les précédents maîtres de la cité à l'instar d'Ezzelino da Romano<sup>23</sup>. Mais, à

<sup>20</sup> Mais ils n'avaient cependant pas subverti l'ancien centre politique. Il a été en effet montré que la deuxième génération des édifices communaux avait été bâtie ici, au cours de la première moitié du XIII<sup>e</sup> siècle, dans la *civitas nova* : I. Lazzarini, *Gerarchie sociali e spazi urbani a Mantova dal Comune alla Signoria gonzaghese*, Pise 1994, pp. 40 et suiv.

<sup>21</sup> Boucheron, *Le pouvoir de bâtir*, pp. 203 et suiv.

<sup>22</sup> G.M. Varanini, *Istituzioni e società a Treviso (1259-1339)*, in *Storia di Treviso*, dir. G. Brunetta, II, *Il Medioevo*, dir. G.M. Varanini et D. Rando, Venezia 1991.

<sup>23</sup> G.M. Varanini, *Vicenza nel Trecento. Istituzioni, classe dirigente, economia (1312-1404)*, in *Storia di Vicenza*, II, *L'età medievale*, a cura di G. Cracco, Vicenza 1988, p. 160.

Vérone, après la nouvelle enceinte de Cangrande (1327), opération de défense mais aussi de prestige, Mastino, reconstruisant le monument funéraire de Cangrande, faisant élever le sien, mène une politique monumentale à la gloire de sa *domus* qui redéfinit le centre urbain. En outre, deuxième nuance, le cœur de la cité n'est pas non plus fatalement abandonné. Songeons par exemple que la *reggia* des da Carrare, vaste et forte *insula*, désormais reliée aux murs par le « traghetto », occupait cependant une position centrale dans Padoue: difficile de trouver meilleure illustration d'un système de relations fortement ambivalent. Enfin, le château proche des murs, moyen pour se défendre, outil pour fuir en cas de troubles, résidence aussi, n'est encore qu'une résidence occasionnelle. A Vérone, la place civique continue à fortement polariser l'espace d'autant que tous les offices de gouvernement, à la différence de ce que l'on observe à Padoue, n'ont pas été absorbés par la résidence seigneuriale<sup>24</sup>. A Mantoue, il faut, répètent tous les chroniqueurs, attendre le concile de 1459 pour que Ludovico Gonzague décide, après un temps intermédiaire où les deux résidences sont utilisées<sup>25</sup>, de fixer sa cour dans le château San Giorgio bientôt transformé par l'adjonction de la chapelle, la création de la bibliothèque et la mise en œuvre d'un programme décoratif. N'oublions pas non plus d'autres données. Les rappeler permet de plaider pour la validité d'une chronologie complexe dans cette histoire de la prise de distance du seigneur par rapport à la cité. Il faut aussi songer que les résidences seigneuriales n'étaient pas toutes urbaines. Le château de Pavie, fondé en 1361, embelli et aménagé par Giangaleazzo après 1379, devient ainsi une résidence pour ce prince qui se déplace et qui chasse. Dans ces années, les différentes dynasties font en effet construire des résidences péri-urbaines, « délices » des Este autour de Ferrare – Schifanoia (1385-1391) avant le Paradiso (1391), Belfiore (1391), Belriguardo (1435)<sup>26</sup> – ou villas des Gonzague autour de Mantoue... La séparation d'avec la ville procède selon de complexes et successifs glissements que confirme une dernière notation de nature chronologique. C'est en 1401 que Francesco Gonzague réorganise la géographie administrative de la ville de Mantoue<sup>27</sup>. La réforme simplifie et uniformise puisqu'elle découpe la cité en quatre quartiers, eux-mêmes divisés en cinq *contrade*. Mais la simplification, parce qu'elle liquide les anciennes *societates* nées à l'âge communal, favorise aussi le dépérissement de cette vie associative qui, sur une base locale, contribuait au fonctionnement du politique. L'histoire de la progressive maîtrise de la cité par les nouveaux pouvoirs est une histoire longue dans laquelle on aurait donc tort de ne retenir que le face-à-face du prince, retranché dans sa forteresse, avec la cité.

<sup>24</sup> Varanini, *Propaganda dei regimi*, pp. 332-333. Relevons au reste les opérations d'embellissement au centre sous la seigneurie de Cansignorio.

<sup>25</sup> J. Woods-Marsden, *The Gonzaga of Mantua and Pisanello's Arthurian Frescoes*, Princeton 1988, pp. 6-7.

<sup>26</sup> W. Gundersheimer, *Ferrara. The Style of a Renaissance Despotism*, Princeton 1973.

<sup>27</sup> Lazzarini, *Gerarchie sociali*, pp. 59-60.

Des châteaux ont donc été construits et le fait est riche de significations. Sans doute valent-ils comme une menace et un instrument de peur, mais il faut se garder d'exagérer dans ce sens. En effet, servant d'abri ou de résidence temporaire, ils révèlent autant la peur de celui qui gouverne et qui s'y retranche. En outre, tout n'est pas qu'affaire de crainte et d'intimidation, de domination et d'imaginaire de la domination. Les seigneurs manifestent aussi leurs liens, forts pour beaucoup d'entre eux, avec la domination foncière et la tradition féodale et ces châteaux adossés aux enceintes, qui regardent vers la campagne comme vers la ville, le disent comme ces nombreuses résidences de campagne et leurs programmes décoratifs où, aux côtés des jeux guerriers, sont représentés les rythmes des saisons et les délices champêtres.

3. Il faut enfin ajouter qu'une série d'autres exemples prouve que certains seigneurs ne craignaient pas de demeurer au centre de la cité. C'est un choix délibéré des Trinci à Foligno comme des da Varano à Camerino, voire des Bentivoglio à Bologne si l'on veut élargir l'arc chronologique<sup>28</sup>. Mais commençons avec les Chiavelli de Fabriano<sup>29</sup>. Depuis le début du XIV<sup>e</sup> siècle au moins, ils possédaient une demeure sur la place, une demeure dont l'importance architecturale et politique grandit à mesure que, selon une courbe ascendante parfois contrariée, ils investissent le gouvernement de la ville. Au début du XV<sup>e</sup> siècle, les actes administratifs peuvent en conséquence selon les cas être pris dans le palais de la commune ou dans celui des Chiavelli. Au XIV<sup>e</sup> siècle, deux moments avaient marqué la construction du pouvoir des Trinci et son évolution vers une forme héréditaire : le maintien de la charge de gonfalonier de justice à l'intérieur de la famille grâce à la rédaction des statuts du peuple, vers 1340, et l'obtention en 1398, par Ugolino III, d'un vicariat pontifical transmissible à ses héritiers. Or, cette évolution s'accompagne d'une implantation de plus en plus manifeste sur la place de la commune. Les Trinci s'étaient d'abord installés au milieu du XIV<sup>e</sup> siècle dans le palais des chanoines adossé à la cathédrale. Puis, deuxième phase, à la fin des années 1390, Ugolino achète diverses maisons bâties sur la *platea vetus*, que la cathédrale et le complexe du palais communal entouraient autrement. Les tours, les boutiques et les maisons acquises sont restructurées pour former un seul ensemble dont les Trinci font leur résidence. Le nouveau palais s'élève entre l'*ecclesia matrix* et le siège du pouvoir communal et bien sûr une telle situation est riche de deux interprétations complémentaires. La famille seigneuriale se place dans l'immédiate proximité de l'église du saint patron<sup>30</sup>.

<sup>28</sup> V. Franchetti Pardo, *Palazzo Trinci nel contesto della città di Foligno*, in *Il Palazzo Trinci di Foligno*, dir. G. Benazzi et F.F. Mancini, Perugia 2001, pp. 29-50, pp. 34-35.

<sup>29</sup> Sur tout ceci, voir la thèse en cours de J.-B. Delzant, *Pouvoir et commande artistique en Italie centrale*, thèse en co-tutelle sous la direction d'E. Crouzet-Pavan (Paris-Sorbonne) et J.-C. Maire Vigueur (Roma Tre).

<sup>30</sup> J.-B. Delzant, *La prière peinte : textes sacrés et propagande politique dans la chapelle du palais Trinci de Foligno (XV<sup>e</sup> siècle)*, in *Textes sacrés et culture profane : de la révélation à la création*, dir. M. Adda, Berne 2010, pp. 181-211.



et montre sa dépendance vis à vis de la commune. Mais, dans le même temps, elle affiche sa puissance, bouleverse, en s'y implantant, la signification politique de la place et fait régulièrement de sa résidence le lieu de réunion des conseils communaux. Quant aux da Varano, suivant une logique d'acquisitions et de restructurations progressives semblable à celle des Trinci, en des séquences qui suivent le renforcement de leur pouvoir, ils prennent pied sur la place de la cathédrale, celle de Sainte-Marie-Majeure<sup>31</sup>. A la fin du Quattrocento, de dernières acquisitions interviennent sous Jules-César : elles sont destinées à agrandir la résidence familiale qui accueillait aussi les offices de l'administration seigneuriale. L'espace civique est donc ici, comme à Foligno, investi avant d'être peu à peu recentré par la présence même du palais seigneurial. Pour autant, l'ordre urbain ancien est plus apprivoisé que disloqué. Les palais de ces deux familles ne sont pas fortifiés. Choix est fait d'une absence d'éléments militaires agressifs et du refus d'une monumentalité trop imposante. Sur la place, la façade du palais est percée de nombreuses fenêtres, semblables à celles des édifices voisins<sup>32</sup>.

4. Dans la seconde moitié du XV<sup>e</sup> siècle, l'urbanisme des princes put bien sûr manifester de plus larges ambitions. Bien des facteurs l'expliquent. C'est une génération de princes humanistes qui arrivent au pouvoir et, parmi eux, Frédéric de Montefeltre ou Ludovico Gonzague, tous deux formés auprès de Vittorino da Feltre, dans la Ca' Zoiosa, tous deux célèbres pour leur attentif patronage des arts et leur réelle compétence en matière d'architecture. Quant aux Este, Leonello et Borso, ils se distinguaient, et la littérature encomiastique n'est pas la seule à y insister, par un intérêt particulier pour leur ville et son embellissement avant même qu'Ercole I, « l'ingeniosus princeps », comme le nomme Pier Candido Decembrio, ne participe lui-même activement à la conception architecturale des monuments<sup>33</sup>. À l'heure aussi où la carte des puissances se stabilise, une politique de magnificence peut vraiment se déployer et elle l'est à toutes les échelles, grands ou petits princes, résidences, équipements publics, églises, projets de restructuration urbaine tandis que, sollicités, les ingénieurs et les artistes circulent. Une autre phase

<sup>31</sup> L'espace urbain s'organisait ici autour de cette place et de celle de Sant'Angelo.

<sup>32</sup> J.-B. Delzant, *Relire et interpréter la ville. Les stratégies d'insertion du pouvoir seigneurial urbain dans l'espace civique (Italie centrale, XIV<sup>e</sup>-XV<sup>e</sup> siècle*, in *Marquer la ville. Signes, empreintes et traces du pouvoir dans les espaces urbains (XII-XVII<sup>e</sup> siècle)*, dir. P. Boucheron et J.-Ph. Genet, à paraître, Rome ; et J.-B. Delzant, *Instaurator et fundator : édification de la seigneurie urbaine et construction de la ville (Italie centrale, fin du Moyen Âge)*, in *The Power of Space : Cities in Late Medieval / Early Modern Italy and Northern Europe*, dir. M. Howell, à paraître in *Studies in European Urban History (1100-1800)*, Turnhout.

<sup>33</sup> M. Folin, *Rinascimento estense. Politica, cultura, istituzioni di un antico Stato italiano*, Roma-Bari 2001, pp. 250 et suiv. Sur les multiples attestations montrant le rôle actif du duc dans les affaires architecturales : T. Tuohy, *Herculean Ferrara. Ercole d'Este, 1471-1505, and the Invention of Ducal capital*, Cambridge 1996, pp. 277 et suiv. L'intérêt, la passion, la compétence du duc dans le domaine de l'architecture sont les expressions de son bon gouvernement et traduisent sa noblesse et sa sagesse.

commence alors pour les résidences princières. Le temps s'ouvre, pour certains, de la reconstruction du palais, ou au moins de son ample réaménagement, comme si le prince, las de se heurter à des traces d'histoire, capable désormais de surmonter les résistances des temporalités anciennes, après de premières solutions intermédiaires, choisissait de plus clairement inscrire ses marques et son pouvoir. Reste qu'il faut de suite remarquer, puisque ces histoires d'espaces sont des histoires de pouvoirs, qu'il fut plus facile au prince d'intervenir sur un site vierge ou presque. Rien d'étonnant donc à ce qu'une première entreprise retienne naturellement l'attention, celle que Frédéric de Montefeltre (1420-1482) mena à Urbino.

A la frontière entre les Marches, l'Ombrie et la Romagne, la région où les Montefeltre entamèrent leur expansion n'avait pas vu se développer de grande ville. La montée en puissance du comte Antonio était passée sans doute par la conquête de centres assez importants comme Cagli et Gubbio. Ses successeurs avaient poursuivi cette politique qui se traduisit par l'occupation provisoire, au gré de leurs actions territoriales parfois désordonnées, d'Assise ou de Forlì. Mais c'est avec Frédéric que le duché se développa comme un véritable État et qu'il trouva, avec Urbino, sa capitale<sup>34</sup>. Seigneur d'Urbino de 1444 à 1482, Frédéric dispose du temps et des moyens nécessaires pour transformer sa ville<sup>35</sup>. C'est dans l'ancien espace communal, à proximité des palais du podestat et des prieurs, que Guidantonio, précédent seigneur d'Urbino, avait fait construire un premier palais seigneurial. Frédéric fait transformer cette résidence et les échos de ses travaux longuement résonnent dans l'Europe de la Renaissance grâce à Castiglione<sup>36</sup>. Les contemporains déjà s'émerveillaient au point que Federico Gonzague réclamait qu'on lui envoyât des dessins du palais lorsqu'il voulut en 1481 faire bâtir sa nouvelle résidence. Les aménagements intérieurs du palais d'Urbino en font le modèle connu de la demeure princière du temps de l'humanisme. Quant à son mode d'insertion dans l'environnement urbain, il a suscité de nombreuses analyses qui se plaisent à souligner la rapidité relative d'une entreprise qui consistait pourtant à transformer Urbino, à en faire « une ville en forme de palais ». Il est évident que Frédéric connaissait fort bien les implications politiques de ses choix architecturaux et décoratifs. Fait important, il disposait aussi, grâce à son activité de condottiere, de revenus substantiels. Il reste que si, en une génération, est transformée une cité, il s'agit d'une bien petite cité à l'échelle de l'urbanisation italienne: 35 hectares, 5 000 habitants. Le paysage de champs et de douces collines de l'Italie centrale, représenté comme l'arrière fonds du double portrait du duc et de son épouse, traduit la prospérité du duché sous le bon gouvernement du prince mais il doit aussi rappeler à l'historien que les campagnes encerclaient en effet le promontoire sur lequel avait été élevée l'élégante

<sup>34</sup> G. Benzoni, *Federico da Montefeltro*, in *D. B. I.*, vol. XLV, Roma 1995, pp. 722-743; *Federico di Montefeltro*, dir. G. Cerboni-Baiardi, G. Chittolini et P. Floriani, Roma 1986, 3 voll.

<sup>35</sup> B. Roeck-A.Tönnemann, *Federico da Montefeltro, Herzog von Urbino*, Berlin 2005.

<sup>36</sup> B. Castiglione, *Le livre du courtisan*, A. Pons éd., Paris 1991, pp. 21.

construction du château. Ici donc, pas de résistance vigoureuse des pierres et des structures préexistantes qui sont remodelées. La façade principale du palais est ainsi réorientée vers l'ouest et Rome. Le palais est transformé, la ville d'Urbino avec lui. Mais le duc et ses architectes ne violent pas la cité. Frédéric est prudent dans sa ville comme il était modéré à la guerre. Le palais ne présente pas une hauteur excessive par rapport aux autres édifices. C'est vers l'extérieur et la vallée que la distance est marquée et l'escarpement utilisé au profit de la fameuse façade à loges et des deux tours élégantes qui ajoutent à la hauteur. Le palais d'ailleurs n'a même pas été édifié au plus haut du site mais au point vers lequel convergeaient les routes venant de Florence et de Rome. Façade monumentale de la ville, il se dresse ainsi triomphalement et surplombe le territoire. Mais il est en revanche inséré dans l'organisme urbain avec une science maîtrisée qui exploite la planimétrie et l'orographie. Il s'ouvre vers la ville, il ne l'écrase pas et la place que les princes d'Urbino parviennent à dégager devant leur somptueuse demeure devient le pivot de tout le développement urbanistique. Or, cette place publique, bordée de portiques à partir des années 1470, n'est pas autre chose que la projection du *cortile* central du palais<sup>37</sup>. Urbino devient, de la sorte, au sens plein du terme une ville princière. L'espace de la cour et la cité s'interpénètrent<sup>38</sup>.

Le palais d'Urbino, grandiose opération monumentale, née de la volonté du prince qui réunit autour de lui une exceptionnelle concentration d'artistes italiens et étrangers et d'ingénieurs, mais réalisée dans une petite ville qui découvrit à mesure que le chantier progressait son destin de capitale, ouvre donc cette première voie à la réflexion<sup>39</sup>. Les princes rêvent de villes à leur image et d'un héritage urbain qui céderait sans crise devant leurs aspirations monumentales. Mais beaucoup ne font que les rêver, à moins qu'ils ne tentent, hors de la cité capitale, de réaliser leur cité idéale.

Pie II n'a pas d'autre ambition : métamorphoser, entre 1459 et 1464, son bourg natal de Corsignano, et sur un terrain urbain à l'histoire jusqu'alors modeste, qu'encercle un paysage agricole, faire naître une ville, Pienza<sup>40</sup>. En 1462, le centre devient siège épiscopal et accède donc au rang de cité. Dans la cathédrale, dans les palais, comme celui des Piccolomini, qui se veut une copie du tout récent palais Rucellai d'Alberti, le programme est de faire triompher la

<sup>37</sup> F.P. Fiore, *Interventi urbani in una signoria territoriale del Quattrocento a Urbino e Gubbio*, in *D'une ville à l'autre. Structures matérielles et organisation de l'espace dans les villes européennes (XIII<sup>e</sup>-XVI<sup>e</sup> siècles)*, dir. J.-C. Maire Vigueur, Rome 1989, pp. 407-437.

<sup>38</sup> G. de Carlo, *La storia di una città e il piano della sua evoluzione urbanistica*, Padova 1966 ; C.H. Clough, *The Duchy of Urbino in the Renaissance*, London 1981 ; M.L. Polichetti, *Il Palazzo di Federico di Montefeltro. Restauri e ricerche*, Urbino 1985 ; L. Miotto et M.L. Polichetti, *Urbino, città ideale*, Urbino 1992.

<sup>39</sup> A Gubbio, c'est la communauté citadine qui cède à Frédéric le palais qui va être transformé en palais seigneurial mais, là encore, la rencontre du nouvel édifice avec le reste de l'espace urbain est sereine ; Fiore, *Interventi urbani*.

<sup>40</sup> E. Carli, *Pienza. La città di Pio II*, Roma 1966 ; C.R. Mack, *Pienza : the Creation of a Renaissance City*, Ithaca-London 1987 ; A. Tönnemann, *Pienza : Statedebau und Humanismus*, München 1990.

nouvelle culture artistique. Fidèles et proches du pape achètent donc des maisons. Un véritable projet urbain est en œuvre : nouvelle place, destinée à abriter l'activité commerciale, nouvelles maisons, nouvel hôpital grâce à d'importantes disponibilités financières et à la présence de Bernardo Rossellino. Mais la mort du pape fossilise l'entreprise et la population, un temps gonflée, décroît rapidement. Un même espoir animait Galeazzo Maria Sforza qui, dans les années 1470, entreprit de transformer le bourg de Galliate. La mort interrompt les travaux, le bourg ne devient pas cité, à la différence de Vigevano<sup>41</sup>. Il conserve seulement quelques traces de ce qui fut un projet urbanistique<sup>42</sup>.

5. Le palais de Frédéric de Montefeltre vaut donc comme un exemple qui, hors d'Urbino, ne connaît pas de véritable accomplissement. Mais porteur d'autres sens, il montre comment dans cette seconde moitié du siècle, le château peut parfois s'articuler à la ville. Retenons l'exemple de Mantoue. Le duc s'installe dans le Castel San Giorgio et l'on pourrait dire que le pouvoir s'isole<sup>43</sup>. Ce serait oublier que l'aménagement, de suite entamé, mobilise les meilleurs architectes comme Luca Fancelli. Un vaste cortile entouré de portiques est dégagé, sans doute sur le modèle du château de Revere qui apparaissait aux contemporains, Filarete ou Flavio Biondo, comme le paradigme de la demeure princière humaniste<sup>44</sup>. Mise en scène du pouvoir du prince, est-il souligné, qui trouvent son pendant dans le décor de la chambre des époux. Le prince qui jusqu'alors aimait à se faire représenter comme le chevalier idéal des cycles arthuriens peints par Pisanello, incarne maintenant la prospérité et la paix d'un âge d'or et, autour de sa figure, la cour s'organise. La seigneurie s'est transformée en principat et la souveraineté princière doit rayonner sur la ville. A la place ouverte devant le palais incombe cette fonction. La restructuration urbaine est en marche, ou mieux vaudrait-il la requalification car là encore pas de véritables bouleversements. Les rues sont rectifiées et pavées, des terrains marécageux sont bonifiés. Grâce aux travaux accomplis sur les édifices publics et les églises, de nouvelles présences monumentales sont insérées dans le tissu urbain médiéval. Et lorsque Mantegna intervient au Castello, ou Alberti dans les églises de Sant' Andrea et San Sebastiano, l'empreinte de l'art nouveau vient se déposer sur la ville ancienne, la magnificence du prince s'exprime dans la gloire des édifices. Mieux vaut pourtant ne pas proposer une lecture trop brutalement univoque, dépendante des imaginaires qui sont alors fabriqués d'un prince démiurge,

<sup>41</sup> Qui fut la résidence préférée de Ludovic le More: R. Schofield, *Ludovico il Moro and Vigevano*, in « Arte lombarda », 62 (1982), pp. 93-140.

<sup>42</sup> G. Andenna, « L'opportunità persa » ovvero la residenza ducale di Galliate nel secondo Quattrocento, in *Vigevano e i territori circostanti alla fine del Medioevo*, dir. G. Chittolini, Abbiategrasso 1997, pp. 341-366.

<sup>43</sup> M. Romani, *Una città in forma di palazzo. Potere signorile e forma urbana nella Mantova medioevale e moderna*, Brescia 1995.

<sup>44</sup> P. Carpeggiani, *La città sotto il segno del principe. Mantova e Urbino nella seconda metà del '400*, in *Federico di Montefeltro*, t. 2, pp. 31-46 ; Tuohy, *Herculean Ferrara*, p. 142.

transformant d'un coup la cité. Bien des chantiers traînent, comme San Sebastiano, ou sont tôt mis en sommeil, tel Sant'Andrea, avant la *Domus Nova*. L'histoire ne s'arrête pas davantage et d'autres évolutions sont à venir. Au temps de Francesco Gonzague, alors même qu'Isabelle d'Este met en œuvre un programme culturel riche d'innovations, comment ne pas observer qu'aucune conscience urbanistique ne paraît se manifester comme si la vie, les élites, la culture se repliaient avec le pouvoir sur la cour, comme si la cité n'était plus que le cadre passif mais inerte qui accueillait la cour<sup>45</sup> ?

A Ferrare, le règne d'Ercole I marque pareillement un retour au centre de la cité. Le patronage des Este avait d'abord trouvé aux marges les espaces où se déployer<sup>46</sup> : villas, jardins, ou fameuse « addition » du duc Borso d'Este qui avait commandé en 1442 la bonification d'une vaste zone marécageuse, le Polesine de Sant'Antonio, réunie à la cité par l'enceinte urbaine et appelée à être urbanisée. Sous Ercole I, le centre devient le théâtre de premières opérations. Les deux principaux lieux de pouvoir, le palais d'une part, le Castel Vecchio d'autre part, sont unis par la « via Coperta ». Puis, les principaux offices de l'État sont peu à peu concentrés dans le palais qui connaît un vaste programme de réaménagements alors que les appartements ducaux sont installés au Castel Vecchio<sup>47</sup>. Tous les édifices qui donnaient sur la place sont progressivement restructurés. Un vaste programme est conduit dont le langage architectural multiplie les références à l'antique. La via Coperta transforme donc en un unique complexe monumental les deux lieux du pouvoir des Este en même temps qu'elle tend à réintégrer dans la ville, assurément placée sous l'ombre du prince, le Castel Vecchio<sup>48</sup>. Le palais est devenu le centre du gouvernement. Aux alentours, pour préserver la dignité du lieu, que l'on tend à protéger, voir à isoler, toutes les activités indésirables ont été éloignées. Et le duc, à partir de 1490, s'attache à transformer sa ville en capitale ducale : fortifications, extensions, constructions d'églises et de palais... Tous ces travaux sont destinés à impressionner à l'heure où le rôle politique du duc croît sur la scène italienne<sup>49</sup>. Reste qu'il ne faut pas négliger un dernier point qui vient heureusement rendre de la densité à l'interprétation. On a discerné à Ferrare les progrès d'une rationalité qui s'exprimait dans la régularisation du tracé des rues<sup>50</sup> ou dans la volonté de plus clairement distinguer entre les usages des lieux. Mais ces évolutions s'observent dans l'urbanisme de toutes les villes, quel que soit le pouvoir qui les domine. Partout les mêmes dispositions sont prises,

<sup>45</sup> C. Mozzarelli, *Lo stato gonzaghesco. Mantova dal 1382 al 1707*, in L. Marini, G. Tocci, C. Mozzarelli et A. Stella, *I ducati padani. Trento e Trieste*, Torino 1979, in *Storia d'Italia*, dir. G. Galasso, vol. 17, pp. 396-397.

<sup>46</sup> A quelques exceptions près, telle la statue équestre réalisée pour Niccolò III.

<sup>47</sup> Cela étant, il ne faut pas perdre de vue que ces cours étaient itinérantes. Le fait a été mis en évidence pour Milan, comme il a été montré que la cour des Este ne restait dans la même résidence pas plus que quelques mois : Tuohy, *Herculean Ferrara*, pp. 142

<sup>48</sup> Je partage pleinement l'analyse de Folin, *Rinascimento estense*, p. 254.

<sup>49</sup> Tuohy, *Herculean Ferrara*, pp. 121 et suiv.

<sup>50</sup> *Ibidem*, pp. 121 et suiv.

assez lentes au reste à entrer dans les faits, qui visent à écarter des centres et des sièges du pouvoir, les marchands ambulants, le commerce de détail, les tas de bois et toutes les activités incompatibles avec la dignité des lieux. Une majesté du pouvoir se conceptualise qui ne prend pas seulement forme dans l'édifice qui en est le siège et auquel il revenait, dans sa morphologie et son décor, de se charger d'un certain nombre de caractères. La majesté du pouvoir rayonne et l'espace proche, tôt protégé par des dispositions spécifiques en matière d'ordre public, se charge d'une dignité appelée à se dilater. On se méprendrait en imputant ces évolutions aux seules politiques princières puisqu'elles sont présentes par exemple à Venise au même titre qu'à Ferrare<sup>51</sup>.

A ces exemples, il revient d'avoir montré qu'il faut distinguer, nuancer et que la ville peut faire de la résistance. Elle en fait à Naples, où le Castel Nuovo, isolé, demeure une œuvre de défense militaire ; elle en fait à Milan, où le Castello de Porta Giovia, malgré les efforts et les projets des Sforza pour le relier au cœur de la cité, conserve, à la périphérie, sa fonction militaire<sup>52</sup>. Comment expliquer de tels contrastes dans l'évolution ? Il faut sans doute invoquer la taille des villes. Milan, Naples, deux métropoles, deux des villes les plus peuplées d'Italie, deux villes dangereuses. Il faut comprendre que certains pouvoirs demeuraient mal assurés et que les conquérants, Alphonse d'Aragon ou Francesco Sforza, le savaient et le redoutaient. Il ne faut pas oublier les pesanteurs propres à l'histoire de chaque communauté urbaine et que les structures matérielles, l'organisation du bâti et le corps social n'ont pas forcément des évolutions synchrones. Entre la communauté urbaine et l'espace, les hiatus, infiniment, peuvent surgir, disparaître ou se durcir, se compliquer en fonction du spectre social. Des permanences subsistent, des réactions s'organisent. La cité, dans ses pierres et sa morphologie, peut changer plus lentement que le corps social, conserver de ce fait comme des empreintes, les traces d'une organisation qui se vide lentement de son sens. Les usages sociaux se dissocient alors de la réalité physique urbaine. Inversement, le groupe peut opposer la force de ses pratiques et, par leur crispation, refuser les mutations<sup>53</sup>. Les châteaux de Milan et de Naples valent en conséquence comme un autre modèle, longuement actif dans l'histoire du XVI<sup>e</sup> siècle italien. Alberti, dans le *De re aedificatoria*, conseillait aux tyrans d'habiter solitairement, dans une citadelle isolée près de la muraille. Les princes victorieux mais inquiets continuent à suivre cette recommandation.

<sup>51</sup> E. Crouzet-Pavan, *Sopra le acque salse. Espaces, pouvoir et société à Venise à la fin du Moyen Âge*, Rome 1992, 2 voll., t. 2, pp. 939 et suiv.

<sup>52</sup> P. Boucheron, *Non domus ista est urbs. Palais princiers et environnement urbain au Quattrocento (Milan, Mantoue, Urbino)*, in *Les palais dans la ville. Espaces urbains et lieux de la puissance publique dans la Méditerranée médiévale*, dir. P. Boucheron et J. Chiffolleau, Lyon 2004, pp. 249-284.

<sup>53</sup> E. Crouzet-Pavan, *La ville et ses villes possibles : sur les expériences sociales et symboliques du fait urbain (Italie du Nord et du Centre, fin du Moyen Âge)*, in *D'une ville à l'autre*, pp. 643-680.

## ***Knighthood in later medieval Italy***

by Trevor Dean

Italian knighthood has not attracted much scholarly attention either in Italy or in the Anglo-Saxon academy. There was, for example, no article on Italy in the five volumes of annual conference proceedings entitled *The Ideals and Practice of Medieval Knighthood*, which ranged over England, France and Germany<sup>1</sup>. And there is no entry for “chivalry” or “knighthood” in *Medieval Italy: An Encyclopedia*<sup>2</sup>. That Italy could have anything significant or relevant to contribute to the study of knighthood seems not to be generally expected. There have been exceptions. Four out of thirteen chapters in Sidney Anglo’s edited volume, *Chivalry in the Renaissance*, were devoted to Italy, but only one of these, Cecil Clough’s *Chivalry and magnificence in the Golden Age of the Renaissance*, really seems to grasp the topic head-on; but even he admits that «chivalry in the Italian Renaissance has remained neglected», and devotes most of his essay to those «manifestations of chivalry... associated with combat, such as tournaments and jousts»<sup>3</sup>. Another exception is Maurice Keen, who fully acknowledges in an early chapter of his book *Chivalry* that the Italian nobility, though urban, was not alien to landowning, chivalry or the values of seigneurial aristocracy, that Italian knights went through «the same kinds of rituals as their northern compeers», and that chivalric literature was as readily taken up in Italy as in Germany<sup>4</sup>. These views are clearly dependent on the work of Philip Jones. Even Jones had first to clear the ground of lingering ideas that Italy and chivalry were incompatible: «for all the influence of... merchandising... it would be grossly wrong to visualize the nobility of communal Italy as somehow forming at any stage an alien species, a race apart, among the aristocracies of Europe»<sup>5</sup>. And he pro-

<sup>1</sup> *The Ideals and Practices of Medieval Knighthood*, ed. C. Harper-Bill, R. Harvey and S. Church, 5 vols, Woodbridge 1986-1995.

<sup>2</sup> *Medieval Italy: An Encyclopedia*, ed. C. Kleinhenz, London 2004.

<sup>3</sup> *Chivalry in the Renaissance*, ed. S. Anglo, Woodbridge 1990, p. 33, 35. The other essays on Italy address sixteenth-century fencing and duelling (Anglo), Cornazzano’s book on military matters (D. Zancani) and fifteenth-century *imprese* (K. Lippincott).

<sup>4</sup> M. Keen, *Chivalry*, New Haven 1984, p. 38-40.

<sup>5</sup> «Per quanto potente fosse l’influenza della *civilitas*, della *mercatura* o degli altri *mores* regionali, sarebbe grossolanamente errato figurarsi che la nobiltà dell’Italia comunale formasse in qualche modo, in qualsiasi stadio, una specie diversa, una razza a parte fra le aristocrazie

ceeds, in a few very condensed pages, first to examine the vocabulary used to denote nobility and the accepted attributes or criteria of nobility, from birth, possessions and knighthood, to office, fiefs, ownership of castles and urban towers, and the practice of private war, then to argue for a progressive sharpening of class sensitivity and difference in twelfth and thirteenth century Italy, «as nobles and knights preserved all the pretensions and self-consciousness of a superior, separate caste». As regards the process of knighthood, Jones notes how from the thirteenth century it was surrounded by elaborate ceremonial (the bath and vigil, dubbing, golden spurs), how a clear distinction was maintained between true, dubbed knights and mere cavalrymen, how knighthood was sought in the most illustrious circumstances possible (from the emperor, in Rome or Jerusalem), and, contrary to some contemporary or later observers, such as Alvaro Pelagio, who remarked that many Italian knights were rustics or of peasant descent, that in practice knighthood remained «principally engrossed by nobles and *ottimati*». In these few pages, Jones refutes any suggestion that knighthood in communal Italy was diluted, or a pale, devalued version of its northern European counterpart, and argues for its continuing importance as a key part of the values and behaviour by which the nobility set itself apart. Jones was here countering the views of Salvemini, who in an influential essay of 1896 had argued that knighthood in the thirteenth and fourteenth centuries had been democratised and degenerated<sup>6</sup>. For Salvemini, a combination of factors – bourgeois acquisition of wealth undermining noble social exclusivity; use of mercenary armies removing the military rationale of chivalry – led to knighthood becoming a mere honorific title. The separation from values was made evident in the stress Salvemini gave to mercantile mentality as dominant: in a world of measuring and counting, bourgeois traders saw nothing serious in chivalric morality. The separation from military practice was stressed in Salvemini's use of evidence from the fourteenth century of knighthood being conferred on children, old men and the dead. Knighthood thus became no more than a necessary qualification for a job as judge. In addition Salvemini marshalled evidence of two sorts: one the one hand, literary denunciations of the social position, attitudes and behaviour of contemporary knights, from Dante to Sacchetti, and, on the other hand, factual evidence of the actions of knights such as the violent and ambitious Luca da Panzano. These two forms of evidence supported his conclusion that all that remained of late-medieval knighthood was the «poor ruins of a social status now vanished forever»<sup>7</sup>.

d'Europa»: P.J. Jones, *Economia e società nell'Italia medievale: il mito della borghesia*, in *Economia e società nell'Italia medievale*, Torino 1980, p. 66-67, and generally p. 66-93.

<sup>6</sup> G. Salvemini, *La dignità cavalleresca nel comune di Firenze*, in G. Salvemini, *Magnati e popolani in Firenze dal 1280 al 1295*, Torino 1960, p. 355-360.

<sup>7</sup> «Miseri ruderi di uno stato sociale scomparso per sempre»: Salvemini, *La dignità cavalleresca*, p. 395.



There is a clear reason for this general discounting of Italian knighthood in the later Middle Ages. The traditional focus of northern Italian historiography being cities and civic life, knighthood has struggled to find a place in the world of communes and city-states, merchants and markets. One of the few recent historians to devote attention to it is Franco Cardini, the focus of whose research has been on the intersection between chivalric literature and social behaviour, on chivalric “mentalities”. Even Cardini acknowledges that, though «the most recent historiography of the society of north and central Italy between the thirteenth and fifteenth centuries shows a relative abundance of research on military institutions and on those who fought on horseback, it has not made much noticeable progress in the area of chivalric dignity»<sup>8</sup>. In an important article a decade earlier, another historian had concluded with the observation that, for Italy, the history of dubbing remains to be written, and deserves to be written, as «the heart of the problem» of knighthood, and «the key point of the ritual universe of knighthood»<sup>9</sup>. Yet the tendency to interpret knighthood from a mercantile point of view persists: a Genoese nobleman in Sardinia is said to have used the conferral of knighthood as «a sort of special currency»<sup>10</sup>.

More recently it has been argued that in the twelfth and thirteenth centuries, the numbers of dubbed knights were very few («a handful»), and that the class of *milites* – those who owned warhorses and had a taste for mounted warfare, and had the resources, attitudes and values to match – was much larger<sup>11</sup>. It was the Angevins, it seems, who spread the fashion for ceremonial dubbing, Charles d’Anjou himself knighting a number of Florentines<sup>12</sup>. And it was from Angevin Naples, according to Cardini, that Florence drew its chivalric texts and practices in the fourteenth century<sup>13</sup>. In this paper, I pick up from this point and look specifically at dubbing of knights in the fourteenth and fifteenth centuries. If, as Cardini writes, dubbing, because of its increasingly sumptuous and solemn character, expresses the desire and tendency of knights to close themselves into a caste, it is important to examine who had access to dubbing and in what circumstances.

The main aim of this essay is to establish a typology of dubbing. Recently, the occasion and location of dubbings have been divided into the martial (before or after battle) and the non-martial (great feast days, major court

<sup>8</sup> F. Cardini, *L'acciar de' cavalieri: studi sulla cavalleria nel mondo toscano e italiano (secc. XII-XV)*, Firenze 1997, p. 133.

<sup>9</sup> S. Gasparri, *Note per uno studio della cavalleria in Italia*, in «La cultura», 26 (1988), p. 38.

<sup>10</sup> «Una sorta di moneta di scambio pregiata»: L. Gallinari, *Una società senza cavalleria? Il giudicato di Arborea e la corona di Aragona tra XIV e XV secolo*, in «Anuario de estudios medievales», 31 (2003), p. 858.

<sup>11</sup> J.-C. Maire Vigueur, *Flussi, circuiti e profili*, in *I podestà dell'Italia comunale*, ed. J.-C. Maire Vigueur, Roma 2000, II, p. 1047-1055.

<sup>12</sup> C. Lansing, *The Florentine Magnates: Lineage and Faction in a medieval Commune*, Princeton 1991, p. 157. In addition to the references cited there: *I registri della cancelleria angioina*, ed. R. Filangieri, Naples 1950-, vol. 1, p. 117, 124, 208 (1268-1269).

<sup>13</sup> Cardini, *L'acciar de' cavalieri*, p. 98.

occasions)<sup>14</sup>. In England most knighthoods were conferred during military campaigns or royal ceremonies, and the English military failure in France in the mid fifteenth century had the effect of drying up the supply of new knights<sup>15</sup>. In France, the most common occasion for the bestowal of knighthood was the eve of battle, and the rapid, battle-field rite also penetrated the most lavish of ceremonies, those held during royal festivities<sup>16</sup>. More generally in northern Europe it has been said that late-medieval sources mention three occasions for dubbing, namely a solemn royal or imperial court or coronation; a pilgrimage to the Holy Land; and the eve of battle<sup>17</sup>. Though all of these occasions of knighthood are present in Italy, they are expanded and supplemented: not just imperial courts and coronations<sup>18</sup>, but princely entrées generally and non-imperial courts; not just Holy Land pilgrims, but Roman ones too. And one other occasion was found too: knightings associated with judicial office. In fact, this was the aspect of Italian knighthood stressed by historians in the late nineteenth and early twentieth centuries, as if this was all that was left once knighthood had been emptied of its significance by popular pressures to discipline and curtail the excesses of the knightly class. Knighthood was thus “reduced” to a “mere” qualification for office. But judicial office had always been associated with knighthood: the knight was dubbed with the sword of justice, and the exercise and upholding of justice was part of chivalric ideology.

Knighthood for judicial office can thus serve as the first type. It was expected that judges should be knights. A nobleman (*dominus*) of San Miniato, son of a man called Barone, due to set off for Reggio to act as Capitano del popolo, was knighted by his uncle<sup>19</sup>. Jacopo d’Appiano, made Capitano of Pisa in 1393, arranged for himself to be made a “knight of the popolo”, considering the nature of his office<sup>20</sup>. In Bologna in 1366 it was thought noteworthy by the local chroniclers when a podestà was appointed who was not a knight<sup>21</sup>. More usually, when a non-knight was appointed, perhaps unexpectedly, a simple ceremony of knighthood would be rushed

<sup>14</sup> F. Pilbrow, *The knights of the bath: dubbing to knighthood in Lancastrian and Yorkist England*, in *Heraldry, Pageantry and Social Display in Medieval England*, ed. P. Coss and M. Keen, Woodbridge 2002, p. 197-198.

<sup>15</sup> B.M. Daw, *English knighthood in decline: the last years of the Hundred Years War, 1435-53*, in «Bulletin of the John Rylands Library», 83 (2001), p. 203-204, 213-214.

<sup>16</sup> P. Contamine, *La chevalerie en France à la fin du Moyen Âge*, in «Francia», 4 (1976), p. 273-282.

<sup>17</sup> Keen, *Chivalry*, p. 79.

<sup>18</sup> For example, the controversial knighting of Castruccio Castracani in Rome 1328, at which many barons grumbled that his «veste de cremisi» was not appropriate: *Cronaca di Pisa di Ranieri Sardo*, ed. O. Banti, Rome 1963, p. 81; *Cronache senesi*, ed. A. Lisini and F. Iacometti, in *RIS* [*Rerum Italicarum Scriptores*], XV, pt 6, Bologna 1931-, p. 466.

<sup>19</sup> *Diario di Ser Giovanni di Lemmo da Comugnori dal 1299 al 1320*, ed. L. Passerini, Firenze 1876, p. 171.

<sup>20</sup> *Cronaca di Pisa di Ranieri Sardo*, p. 259-260.

<sup>21</sup> *Corpus chronicorum bononiensium*, ed. A. Sorbelli, in *RIS*, XVIII, pt 1, Città di Castello and Bologna 1906-1940, III, p. 209.

through. Thus in Siena in 1351 the podestà died in post, and the Sienese government decided to appoint his 25-year-old son in his place, and had him knighted at the commune's expense<sup>22</sup>. It was this practice that drew the acerbic criticism of Franco Sacchetti in a piece of social commentary inserted into one of his *novelle* concerning Dolcibene, an entertainer or "courtier-knight" (*cavaliere di corte*) of a type that conservatives scorned and that historians have taken as a sign of decadence<sup>23</sup>. After inveighing against the giving of knighthood to «mechanicals, guildsmen, even bakers», or, worse, to «carders, usurers and *ribaldi*» – «shites not knights»<sup>24</sup> – Sacchetti also complains of judges and notaries receiving knighthood:

How apt it is for a judge to be made a knight so that he can serve as podestà! It's not that knowledge does not befit a knight, but it should be real knowledge, without pay, without issuing *consilia* from a lectern, without attending court as an attorney – that's good chivalric exercise. Even worse, notaries are made knights<sup>25</sup> ...

The second type of knighthood was more frequent: knighthood before battle or after a victory. Shortly before besieging the fort (*rocca*) in Orvieto in 1380, Rinaldo Orsini made several knights beside a fountain<sup>26</sup>. During a Bolognese military expedition against the invading forces of the duke of Milan in 1391, twenty knights were made at one time, when it was thought that battle was about to be joined<sup>27</sup>. Thirty years earlier, following joint Bolognese-papal defeat of Milanese forces, a horse-race had been held, with prizes consisting of captured armour, and then six knights had been created on the battle field: the papal commander, Galeotto Malatesta, first knighted the pope's political representative, and he in turn created the other five knights, members of the Bolognese urban elite<sup>28</sup>. This sort of two-stage creation of knights was not uncommon. In Pisa in 1369, Giovanni d'Agnello first received knighthood from the emperor, and then granted it in turn to six Pisans<sup>29</sup>. It obviously reflected or enacted local hierarchies.

<sup>22</sup> *Cronache senesi*, p. 504.

<sup>23</sup> «Li cavalieri delle corti, come son questi buffoni, non sono nobili, perocché non sono accettati come cavalieri»: Lapo da Castiglionchio, quoted in F. Flamini, *La lirica toscana del Rinascimento anteriore al tempo del Magnifico*, Pisa 1891, p. 194-195; L. Ricciardi, *Col senno, col tesoro e colla lancia: riti e giochi cavallereschi nella Firenze del Magnifico Lorenzo*, Firenze 1992, p. 50.

<sup>24</sup> «Li meccanici, gli artieri, insino a' fornai... ancora più giù, gli scardassieri, gli usurai e' rubaldi di barattieri... cacaleria non cavalleria»: Franco Sacchetti, *Il Trecentonovelle*, ed. A. Lanza, Firenze 1984, p. 325.

<sup>25</sup> «Come risiede bene che uno giudice per poter andare rettore si faccia cavaliere! E non dico che la scienza non istea bene al cavaliere, ma scienza reale senza guadagno, senza stare al leggio a dare consigli, senza andare avvocatore a' palagi de' rettori. Ecco bello esercizio cavalleresco. Ma e' ci ha peggio: che li notai si fanno cavalieri»: Sacchetti, *Il Trecentonovelle*, p. 325.

<sup>26</sup> *Cronaca del conte Francesco di Montemarte*, in *Ephemerides Urbevetanae*, ed. L. Fumi, *RIS*<sup>2</sup>, XV, pt 5, vol. 2, Città di Castello and Bologna 1903-1929, p. 245.

<sup>27</sup> *Corpus chronicorum bononiensium*, III, p. 434.

<sup>28</sup> *Ibidem*, p. 133-134.

<sup>29</sup> *Cronaca di Pisa di Ranieri Sardo*, p. 171-172.

It was important that knighthood received by members of the elite should be mediated by the papal governor or the local lord, and that the local elite should not have direct access to the source of chivalric dignity, whether a successful commander from an illustrious family or the emperor himself. Such attempts to channel and control what Maurice Keen called the chivalric line of «apostolic succession» was an important, but neglected, aspect of Italian government, of a piece with governments' efforts to ensure that land held in fief by the nobility directly from the emperor should be mediated through them (a controversial claim which many imperial feudatories objected to or ignored)<sup>30</sup>. At Ferrara, those who are recorded as knights were all members of families important at the court of the ruling family – and whose position owed much to their military activities – while those families who were rarely present at court had few or no knights among their ranks<sup>31</sup>. Such mediation forces us to recognise the importance attached to the identity of the person dubbing the new knight. People remembered who had dubbed whom; if they record nothing else of the ceremony, chronicles specify the names of the participants<sup>32</sup>. In an amusing story told by Giovanni Gherardi da Prato in his *Paradiso degli Alberti*, a duel of honour is fought at the Visconti court in Milan between two court minstrels or jesters, who were both knights; the narrator establishes their chivalric credentials by claiming that one had been knighted by Emperor Charles V, the other by the lord of Padua. Sometimes this memory of dubbing was preserved in a change or addition to the new knight's name: one of the fourteenth-century Malatesta lords of Rimini, Malatesta Ungaro, was reportedly so called because he had been knighted by the king of Hungary<sup>33</sup>; in Orvieto in 1315, Cinzio di Zaccaria was knighted by the podestà, who, according to the chronicle, «imposed on him his [own] name, and he was called "lord Benedetto"», and the square or campo where his house stood was changed from the «campo of pigs» to the «campo of flowers»<sup>34</sup>. So knighthood could have a transforming effect on the names of recipients, and even of their properties, and should thus be ranked with other initiations that involved a change or transmission of name (baptism, conversion, religious profession, apprenticeship). As with these analogous initiations, new knight and dubber entered a relationship, of loyalty, gratitude and honour<sup>35</sup>.

<sup>30</sup> G. Chittolini, *Infeudazioni e politica feudale nel ducato visconteo-sforzesco*, in G. Chittolini, *La formazione dello stato regionale e le istituzioni del contado*, Torino 1979, p. 59-65; J.W. Black, *Natura feudi haec est: lawyers and feudatories in the duchy of Milan*, in «English Historical Review», 109 (1994), p. 1155-1158.

<sup>31</sup> T. Dean, *Land and Power in late medieval Ferrara: The Rule of the Este, 1350-1450*, Cambridge 1988, p. 146-147.

<sup>32</sup> Ricciardi, *Col senno, col tesoro e colla lancia*, p. 36.

<sup>33</sup> F. Cardini, *Malatesta "Ungaro" al purgatorio di San Patrizio. Immaginario e realtà di un episodio italiano di cavalleria*, in *Das andere wahrnehmen: Beiträge zur europäischen Geschichte*, ed. M. Kintzinger, W. Stürner and J. Zahlten, Köln 1991, p. 275.

<sup>34</sup> *Annales Urbevetani*, in *Ephemerides Urbevetanae*, p. 179.

<sup>35</sup> Pilbrow, *The knights of the bath*, p. 199.

The third type of knightly investiture is the formal and ceremonial. This takes various forms, but in all of these the religious aspects of knighthood are much more evident than in the previous two types. Maurice Keen observed that the religious element seldom reached as far as to allow a churchman to play the role of officiator, and when it did, the ecclesiastic involved was a prince-bishop; this seems to be the case in Friuli at least, where the patriarch of Aquileia in the late thirteenth century was apparently accustomed to dub knights: he did so for various Italian and German lords in 1297, and his refusal to do so for some other Italians in 1285 was seen as needing explanation by a local chronicler<sup>36</sup>. More usually perhaps, as Keen suggested, religious belief and practice affected the timing and location of the investiture. Ceremonial knighting often took place on major dates in the Christian calendar: dates associated with Christ himself (Christmas, Easter) or with his mother (Assumption) or with his apostles<sup>37</sup>. Azzo Visconti knighted two members of the Milanese nobility at Easter 1338<sup>38</sup>. Chivalric ceremonies also took place in cathedral churches before the high altar, for example, in Milan in 1394 or in Pisa in 1393<sup>39</sup>. Guglielmo Suardi and Niccolò Terzi were knighted in Pavia cathedral, on Ascension day, by Giangaleazzo Visconti in 1386<sup>40</sup>. They might also take place at sites of Christian pilgrimage: in 1367 Niccolò II d'Este created twelve knights in Rome, «in the name and memory of the twelve apostles», and in 1413 Niccolò III, on pilgrimage to the Holy Land created five knights in the Holy Sepulchre, the whole occasion being marked by displays of piety (masses, vows, symbolic acts binding the new knights to Christ)<sup>41</sup>. Of these formal investitures there seem to have been two main types: knighthoods conferred by illustrious visiting dignitaries, such as the emperor, or conferred in locations of prestige; and (a much larger group) knighthoods conferred in order to bring legitimacy to new or unstable regimes, or to announce and exercise some new authority. This latter category is marked by variety of occasion and circumstance. Knighthood could accompany a pacification of factions and a return of exiles, as in Orvieto in 1330<sup>42</sup>. It could act as a supplementary legitimation: recently appointed doge of Pisa, Giovanni dell'Agnello sought from Emperor Charles IV confirmation of his title and knighthoods for members of his family: before his entry into Lucca, Charles IV knighted both Giovanni and his son, and Giovanni in turn, at the gate of the city, knighted six other men<sup>43</sup>. The grant of knighthood by

<sup>36</sup> Keen, *Chivalry*, p. 74; Juliani canonici Civitatis Chronica, ed. G. Tambara, in *RIS*<sup>2</sup>, XXIV, pt 14, p. 18, 28.

<sup>37</sup> Ricciardi, *Col senno, col tesoro e colla lancia*, p. 26, 47.

<sup>38</sup> *Gualvanei de la Flamma... opusculum de rebus gestis ab Azzone, Luchino et Johanne Vicecomitibus*, ed. C. Castiglioni, in *RIS*<sup>2</sup>, XII, pt 4, Bologna 1938, p. 25.

<sup>39</sup> *Chronicon bergomense guelfo-ghibellinum*, ed. C. Capasso, in *RIS*<sup>2</sup>, XVI, pt 2, Bologna 1928, p. 56; *Cronaca di Pisa di Ranieri Sardo*, p. 259-260.

<sup>40</sup> *Chronicon bergomense guelfo-ghibellinum*, p. 28.

<sup>41</sup> Dean, *Land and Power*, p. 147.

<sup>42</sup> *Annales Urbevetani*, p. 191.

<sup>43</sup> *Cronaca di Pisa di Ranieri Sardo*, p. 169, 171-172.

new rulers could be part of a search for consensus. In Bologna, knighthoods were conferred at the formal entry into the city of new papal legates or governors (e.g. 1360, 1424)<sup>44</sup>. Every change of regime in Bologna in the early fifteenth century was marked by the creation of knights: when Giovanni Bentivoglio made himself lord of the city in 1401, he created many knights «for this occasion» as the chronicler says; in 1402, when there was a popular revolt against Giovanni Bentivoglio and political exiles were recalled, the first exile to arrive were knighted in the piazza; the following month, Bolognese envoys went to the duke of Milan to surrender the city to him, and he knighted one of their number<sup>45</sup>. A more famous example of knighthoods conferred during a successful popular revolt came in Florence in 1378, when a large number of knights were created during the Ciompi tumult. This gave rise to a problem, however: the knighthoods had obviously been conferred at great haste in the heat of the insurrection, and many of the new knights reportedly refused to wear knightly robes or insignia, or to behave as knights, fearing that these knighthoods might be challenged on account of the absence of ceremony. The Florentine government had to stage another, formal ceremony for them a few weeks later<sup>46</sup>.

Knighthood could also be a part of a long-standing relation of patronage and protection between major and minor city. In 1406, the Florentine Piazza della Signoria was the stage for a sequence of knightly rituals that seems to have had the import of establishing or confirming the Florentine commune as a source of chivalric status in Tuscany<sup>47</sup>. The occasion was celebration of the Florentine capture of Pisa. First, of all, over several days in October, the Guef Party of Florence organised a series of parades (*armeggiare*) by bands of youths. Then on the 28<sup>th</sup>, the Standard-bearer of Justice created as a knight Piero Gaetani, a Pisan, and presented him with gifts from the commune of a pendant and a cup bearing the arms of the Florentine popolo. The purpose of this knighting, however, was subsidiary to the main event, for Piero Gaetani then went to Santa Maria Novella, to meet the lord of Cortona, Francesco de' Casali. They returned to the Piazza with many other Florentine and Pisan knights, and Francesco and the Standard-bearer mounted a special platform, in front of the *ringhiera* where the Priors were sitting, and there Francesco was knighted: he was adorned, successively, with a golden belt, a sword, a garland and spurs, and, thus attired, he went with his company of knights and *armeggiatori* to make offerings at the altars of the cathedral and of Santa Maria Novella. Three days later, Francesco Casali held a joust on the Piazza Santa Maria Novella, threw a dinner in the refectory for the government and

<sup>44</sup> *Corpus chronicorum bononiensium*, III, p. 119, 574.

<sup>45</sup> *Ibidem*, p. 473, 483, 486.

<sup>46</sup> *Diario d'anonimo fiorentino dall'anno 1358 al 1389*, ed. A. Gherardi, in *Cronache dei secoli XIII e XIV*, Firenze 1876, p. 521-524.

<sup>47</sup> *Diario fiorentino di Bartolomeo di Michele del Corazza: anni 1405-1438*, ed. G.O. Corazzini, in «Archivio storico italiano», 53 (1894), p. 242-245; Ricciardi, *Col senna, col tesoro e colla lancia*, p. 40-41.

Florentine knights, and received further gifts from the Guelf Party. The Casali were already formal clients, *raccomandati*, of Florence – Florence promising them military and political protection, and the Casali owing an offering of silk cloth on the feast of the Florentine patronal saint – and this ceremonial knighthood further cemented the quasi-paternal relation between commune and lord<sup>48</sup>.

The acquisition of cities could also be marked in the same way. When Cangrande della Scala, lord of Verona, acquired Padua in 1329, he organised a great public celebration in Verona, two major parts of which were, first, a marriage between his illegitimate son and the daughter of an important Paduan political figure, and, second, knighthoods awarded to many nobles from Verona, Padua and other cities of north-east Italy. According to a chronicler, Cangrande himself «adorned them with gold and purple garments, with gold belts, beautiful warhorses and palfreys»<sup>49</sup>. Similarly, when Padua was conquered by Venice in 1405, the first thing that the commander of the Venetian army did was to march to the piazza and create some new knights<sup>50</sup>. In this case, knighthood following victory and knighthood as a sign of new authority merged into each other. Knighthood could also accompany a city's territorial expansion without the need for military conflict. When the lord of Cortona submitted to Siena in 1359, he and his two sons were knighted by the commune of Siena, «with great honour, triumph and celebration», says the chronicler<sup>51</sup>. «Triumph and magnificence» were likewise the hallmarks of the dubbing of Antonio degli Atti by Sigismondo Malatesta in 1448: the key parts of the ceremony on this occasion were not just the placing of the spurs, the belting with a sword, and the conferment of gifts of silk-cloth, cups and bowls, but the administration of an oath «to be a good and loyal knight»<sup>52</sup>.

Conferring knighthood functioned as an exercise of authority by new regimes, but such knighthoods had advantages too for the recipients: in a formal, state occasion, the costs were borne by the state. Thus, when Siena knighted the lord of Cortona, the cost to Siena was 2,000 florins, which covered the cost of the celebrations and of gifts to each of the new knights (clothing, a silver-gilt belt, two horses and a lavish dinner). If the costs of knighthood were escalating, as is often claimed to be the case, it is worth recalling the early fourteenth-century poem by Folgore da San Gimignano, in which a young man becoming a knight mortgaged his lands to pay for the prepara-

<sup>48</sup> *I Capitoli del comune di Firenze. Inventario e regesto*, ed. C. Guasti, Firenze 1866-1893, 2 vols, I, p. 511-513, 515-516; G. Mancini, *Cortona nel Medio Evo*, Roma 1969, p. 259-260.

<sup>49</sup> Guillelmi de Cortusiis *Chronica de novitatibus Padue et Lombardie*, ed. B. Pagnin, *RIS*, XII, pt 5, Bologna 1941-1975, p. 55-56.

<sup>50</sup> Galeazzo e Bartolomeo Gattari, *Cronaca carrarese*, ed. A. Medin and G. Tolomei, in *RIS*, XVII, pt 1, Città di Castello and Bologna 1909-1920, p. 575.

<sup>51</sup> *Cronache senesi*, p. 591.

<sup>52</sup> *Cronache malatestiane dei secoli XIV e XV*, ed. A.F. Massera, in *RIS*, XV, pt 2, Bologna 1922-1924, p. 124-125; A. Campana, *Atti, Isotta degli*, in *Dizionario biografico degli italiani*, Roma 1962-, vol. 4, p. 547-548.

tions, the food for all the guests, the servants and the musicians etc. If, under this sort of cost pressure, knighthood was becoming a dignity conferred by lords and city-governments, and if the identity of the source of knighthood was highly significant, then this raises important issues for the relation between governments and nobilities in Italy in this period.

A further way of looking at these formal knighthoods would be in terms of relations between fathers and sons. According to Gasparri, dubbing was a rite of male youths, sometimes linked in the sources to marriage. Cardini makes the link to marriage too, in his study of end-of-Carnival nocturnal jousting («armeggiar di notte») by a group of young Florentines males outside the house of their leader's possible bride-to-be (1464). The same author has also called attention to the importance of father-son relations in his study of the dubbing of Francesco Bandinelli in 1326, an occasion for which we have an extraordinarily detailed account in the Sienese chronicles, which include the guest lists, lists of what the guests had to eat, and lists of the gifts made both to and by the new knight<sup>53</sup>. Cardini argues that, though Francesco's father had a role in the formal proceedings, their overall character was civic, through the principal roles given to the podestà and the Captain of the Popolo, and through the participation as guests of families from all the districts of the city: the union of the familial and the civic reflected the community value attached to this ceremony<sup>54</sup>. This analysis compares Siena to Florence, where Salvemini too saw the knighting rituals as predominantly civic<sup>55</sup>, and distinguishes them both from court societies such as Verona, where dubbing ceremonies served much more as focal points for the whole region. Just as courts drew their personnel widely from within and outside the lord's territories, so in turn chivalric dignity flowed from the court to the nobility of the region.

Gauging the relative frequency of these three types of dubbing – the military, the ceremonial, and the official – is not easy. One means of making this calculation is to classify all the knighthoods found in selected chronicles. Thus, in the Perugian compilation that goes under the name of the *Diario del Graziani*, there are eight occasions recorded for the conferral of knighthoods during the fourteenth and fifteenth centuries (to 1445). Three may be classed as ceremonial: the knights created by the King of Hungary on his entry into Foligno, and the knighthoods conferred by or on behalf of the pope, and by a Perugian nobleman<sup>56</sup>. Three occasions were military, following successful Perugian campaigns<sup>57</sup>. And two occasions were official, for the purposes of

<sup>53</sup> *Cronache senesi*, p. 442-451; Ricciardi, *Col senno, col tesoro e colla lancia*, p. 23-29.

<sup>54</sup> Cardini, *L'acciar de' cavalieri*, p. 90.

<sup>55</sup> Salvemini, *La dignità cavalleresca*, p. 427.

<sup>56</sup> *Cronaca della città di Perugia dal 1309 al 1491 nota col nome di Diario del Graziani*, ed. A. Fabretti, in «Archivio storico italiano», 16 (1850), p. 146 (1347), 368 (1433), p. 573 (1445).

<sup>57</sup> *Cronaca della città di Perugia*, p. 115-116 (1336), 186 (1358), 190 (1360).



serving as podestà in other cities<sup>58</sup>. Sometimes these occasions blended into each other: in 1336, the commune knighted the podestà «in the army at San Lazzaro»; in 1360 the commune knighted four men from Montepulciano for their actions in the war against Siena, but the event took place not (apparently) on the battlefield, but later, «with all the trappings of chivalry», and making them gifts and grants of horses and property. Secondly, in the later fourteenth and early fifteenth-century section of Matteo Griffoni's Bolognese chronicle, the author records five knightings: three during or immediately after military action, and two during official ceremonies (the entry of the cardinal legate, the appointment of Giovanni Bentivoglio as lord)<sup>59</sup>. Lastly, of the twenty-four knightings recorded in the *Cronache senesi* for the period 1281-1377, four were to enable men to take up office<sup>60</sup>; six were associated with imperial or princely ceremonies (entrées, a coronation)<sup>61</sup>; and five with military feats, mostly after battle (including the knighting of Count Ranieri da Donoratico over the dead body of the prince of Taranto's son), but also in recognition and reward of long-term military service to the commune (Guido Riccio Fogliani)<sup>62</sup>. The conclusion to be drawn is that knighthood for judicial office was therefore a minor mode, and that the connection with military practice, and with individual and collective feats of arms, was still very much alive, along with the political use of knighting ceremonies for the consolidation of regimes and (though this is more suggested than yet demonstrated) of elites. Knighting ceremonies were thus far from being marginal in late medieval Italy, but could be central to the acquisition of new cities and territories, and to the installation of new regimes, both republican and signorial.

<sup>58</sup> *Ibidem*, p. 319 (1426), 366 (1433).

<sup>59</sup> Matthaei de Griffonibus *Memoriale historicum de rebus Bononiensium*, ed. L. Frati and A. Sorbelli, in *RIS*, XVIII, pt 2, Città di Castello 1902, p. 64, 67, 76, 90, 91.

<sup>60</sup> *Cronache senesi*, p. 225 (1281), 227 (1290), 504 (1331), 651 (1373).

<sup>61</sup> *Ibidem*, p. 345-346 (1314), 352 (1315), 364 (1316), 466 (1327), 579 (1355), 582 (1355).

<sup>62</sup> *Ibidem*, p. 352-353 (1315), 454 (1332), 530 (1342), 603 (1363), 630 (1369).



# ***Lega Lombarda und Rheinischer Städtebund. Ein Vergleich von Form und Funktion mittelalterlicher Städtebünde südlich und nördlich der Alpen***

von Gerhard Dilcher

## ***1. Lega Lombarda und Rheinischer Städtebund in der Historiographie***

Die Städtebünde, um die es hier gehen soll, nämlich die erste lombardische Liga der Sechziger- bis Achtzigerjahre des 12. Jahrhunderts einerseits und der Rheinische Städtebund der Jahre nach 1254, haben früh und immer wieder die Aufmerksamkeit der nationalen und internationalen Geschichtsschreibung gefunden. Es kann deshalb nicht das Ziel der folgenden Überlegungen sein, diesen ausführlichen, in vielen Punkten allerdings oft streitigen Forschungen neue Erkenntnisse im einzelnen hinzuzufügen<sup>1</sup>. Die hier beabsichtigte Gegenüberstellung und der Vergleich haben allerdings sehr viel weniger häufig und intensiv stattgefunden. In dieser Hinsicht ist vor allem – und fast allein – eine Tagung und ein Sammelband des Konstanzer Arbeitskreises für mittelalterliche Geschichte zu nennen, der sich in die Reihe der Rückblicke auf den Konstanzer Frieden des Jahres 1183 zwischen Friedrich Barbarossa und den lombardischen Städten einreihet, aber thematisch dem Thema „Kommunale Bündnisse Oberitaliens und Oberdeutschlands im Vergleich“ gewidmet ist<sup>2</sup>. Während die Aufsätze dieses Bandes die betreffenden Einzelthemen behandeln, durfte der Autor dieser Zeilen eine erste Summe als Zusammenfassung am Ende der Tagung und des

<sup>1</sup> Die Studien, auf denen die folgenden Ausführungen in Bezug auf den Lombardenbund aufbauen, sind vor allem folgende: G. Fasoli, *Federico Barbarossa e le città lombarde* e *La Lega Lombarda - Antecedenti, formazione, struttura*, in *Probleme des 12. Jahrhunderts*, Stuttgart 1968 (Vorträge und Forschungen, XII), S. 121-142 e 143-160; G. Vismara, *Struttura e istituzioni della prima Lega Lombarda*, in *Scritti di Storia Giuridica*, 3, Milano 1987 (zuerst 1970), S. 17-70; R. Bordone, *I comuni italiani nella prima Lega Lombarda: confronto di modelli istituzionali in un'esperienza politico-diplomatica*, in H. Maurer (Hrsg.), *Kommunale Bündnisse Oberitaliens und Oberdeutschlands im Vergleich*, Sigmaringen 1987 (Vorträge und Forschungen, XXXIII), S. 45-62.

<sup>2</sup> Maurer (Hrsg.), *Kommunale Bündnisse*.

Tagungsbandes ziehen<sup>3</sup>. Nachdem ich mich in den letzten Jahren noch einmal ausführlicher mit den verfassungsrechtlichen Hintergründen der Entwicklung vom Reichstag von Roncaglia 1158 bis zum Frieden von Konstanz 1183 beschäftigt habe<sup>4</sup> und außerdem die Struktur der spätmittelalterlichen deutschen Städtebünde durch die Arbeit von Eva-Marie Distler sehr viel schärfer und genauer herausgearbeitet ist<sup>5</sup>, möchte ich an dieser Stelle noch einmal zu einer vergleichenden Betrachtung ansetzen. Ich darf hoffen, dass dieser Ansatz und diese Fragestellung das Interesse von Giorgio Chittolini gewinnt, handelt es sich doch um den historischen Ausgangspunkt jener großen Entwicklung der oberitalienischen Städtewelt zur Struktur von Stadtstaat und Territorium, dem der mit dieser Festschrift Gefeierte seine maßgebenden Studien gewidmet hat<sup>6</sup>, auf der anderen Seite um den Ausgangspunkt einer ganz andersartigen Entwicklung von Reich, Stadt, Staat und Territorium im Reichsverband in Deutschland, die aber gerade unter dem Gesichtspunkt des Vergleichs interessieren kann.

Besonders der lombardischer Städtebund, die erste Lega Lombarda, zog aus verständlichen Gründen das Interesse der frühen nationalen Geschichtsschreibung Italiens auf sich<sup>7</sup>. Da hier die neue kommunale Welt Oberitaliens auf das Programm einer Erneuerung des *honor Imperii* des Staufers stieß, hatte die Geschichtsschreibung Deutschlands (und anderer) sich nicht weniger intensiv, teilweise aber aus anderer Perspektive, mit dieser Zeit und diesen Ereignissen beschäftigt<sup>8</sup>. Die Geschichte jener Jahre bie-

<sup>3</sup> G. Dilcher, *Reich, Kommunen, Bünde und die Wahrung von Recht und Friede. Eine Zusammenfassung*, in Maurer (Hrsg.), *Kommunale Bündnisse*, S. 231-247. Ich habe die Gedanken weitergeführt in G. Dilcher, *Mittelalterliche Stadtkommune, Städtebünde und Staatsbildung. Ein Vergleich Oberitalien-Deutschland*, in *Recht - Idee - Geschichte. Beiträge zur Rechts- und Ideengeschichte für Rolf Lieberwirth anlässlich seines 80. Geburtstages*, hrsg. von H. Lück u. B. Schildt, Köln-, Weimar-Wien 2000, S. 453-467.

<sup>4</sup> G. Dilcher, *La "Renovatio" degli Hohenstaufen fra innovazione e tradizione. Concetti giuridici come orizzonte d'azione della politica italiana di Federico Barbarossa*, in *Il secolo XII: la "renovatio" dell'Europa cristiana*, hrsgg. von G. Constable, G. Cracco, H. Keller, D. Quagliioni, Bologna 2002 (Annali dell'Istituto storico italo-germanico in Trento. Quaderni, 60), S. 253-288, deutsch auch in «Historische Zeitschrift», 276 (2003), S. 613-646; G. Dilcher, *Das staufische Herrschaftskonzept in der roncalischen Gesetzgebung und im Konstanzer Frieden: Tragende Prinzipien und innere Widersprüche*, in *Gli inizi del diritto pubblico. L'età di Federico Barbarossa legislazione e scienza del diritto. Die Anfänge des öffentlichen Rechts. Gesetzgebung im Zeitalter Friedrich Barbarossas und das Gelehrte Recht*, hrsg. von G. Dilcher, D. Quagliioni, Bologna-Berlin 2007, S. 19-46.

<sup>5</sup> E.-M. Distler, *Städtebünde im deutschen Spätmittelalter. Eine rechtshistorische Untersuchung zu Begriff, Verfassung und Funktion*, Frankfurt am Main 2006.

<sup>6</sup> Unter der Vielzahl seiner Publikationen zitiere ich hier nur G. Chittolini, *Città, comunità e feudi negli stati dell'Italia centro-settentrionale (secoli XIV-XVI)*, Milano 1996 und G. Chittolini, *The Italian City-State and Its Territory*, in *City-States and Classical Antiquity and Medieval Italy*, ed. A. Molho, K. Raaflaub, J. Emlen, Stuttgart 1991, S. 589-602. Aus den von Giorgio Chittolini mit initiierten Tagungen und Bänden des Istituto storico italo-germanico in Trento erwähne ich hier G. Chittolini, D. Willoweit (hrsg. von), *L'organizzazione del territorio in Italia e Germania secoli XIII-XIV*, Bologna 1994 (Annali dell'Istituto storico italo-germanico in Trento. Quaderni, 37).

<sup>7</sup> Nach Muratori und Sismondi zitiere ich hier vor allem C. Vignati, *Storia diplomatica della Lega Lombarda*, Milano 1867.

<sup>8</sup> Aus neuerer Zeit H. Keller, *Adelsherrschaft und städtische Gesellschaft in Oberitalien (9.-12.*

tet in der Tat eindrucksvolle Bilder. Die erbitterte Belagerung Mailands durch das Heer Barbarossas, der demütigende Bittgang der Bürgerschaft vor dem Kaiser und die Zerstörung des städtischen Charakters der lombardischen Metropole, die Gegengründung einer Stadt mit dem Papstnamen Alexandria, die heimliche Verschwörung der Vertreter der lombardischen Städte in den Klostermauern von Pontida, die Wiederaufrichtung Mailands, der Sieg der Stadtbürger gegen das kaiserliche Ritterheer in der Schlacht von Legnano und dort die symbolische Rolle des Carroccio, die langen und zähen Verhandlungen um Waffenstillstand und Frieden vor dem Hintergrund der Auseinandersetzungen zwischen Kaiser und Papst und der Verflechtung des Konflikts mit den Mächten Venedig, Byzanz und Normannenreich, schließlich der Konstanzer Frieden von 1183, den man heute als kunstvollen Ausgleich des kaiserlichen Anspruchs mit den Interessen und Strukturen der kommunalen Welt sehen kann<sup>9</sup> – all dies verlangt fast nach einer großen narrativen und dramatischen Darstellung. Hinzu kommt, dass von den Städten selbst der Gedanke der Gemeinsamkeit der Italiener, das Selbstbewusstsein einer Italianità also, ins Spiel gebracht worden ist<sup>10</sup>. Schließlich hat die Geschichtsschreibung der letzten Jahrzehnte wichtige Zusammenfassungen gebracht, auf denen wir hier aufbauen wollen<sup>11</sup>.

Ähnlich und doch ganz anders ist die Situation des Rheinischen Städtebundes. Auch hier geht es um Bürger, Adel, Könige und Kaiser. Bei letzteren handelt es sich aber nicht um die großen Herrschergestalten der Staufer Friedrich I. und Friedrich II., sondern um die Könige des Interregnum oder gar die Situation *vacante Imperio*, wie eine Bundesakte nach dem Tod Wilhelms von Holland klagte<sup>12</sup>. Aber auch hier wirft die deutsche Geschichtsschreibung die Frage nach dem Verhältnis von Bürgertum, Herren und Fürsten und eben dem Königtum, nach dem Verhältnis materieller Interessen etwa an den Zöllen und der Bedeutung von Friedenswahrung und Recht als Ziele des Bundes, nach

*Jahrhundert*), Tübingen 1979 (italienisch: *Signori e vassalli nell'Italia delle città*, Torino 1995); A. Haverkamp, *Herrschaftsformen der Frühstaufer in Reichsitalien*, Stuttgart 1970 sowie zahlreiche weitere Studien dieser Autoren. F. Opll, *Friedrich Barbarossa*, Darmstadt 1998<sup>3</sup>, bes. II.4. "Friedrich Barbarossa und die Städte", S. 248-271 sowie die dort zitierten Studien des Autors; K. Görich, *Die Ehre Friedrich Barbarossas. Kommunikation, Konflikt und politisches Handeln im 12. Jahrhundert*, Darmstadt 2001, bes. Kapitel IV., S. 186-330.

<sup>9</sup> So schon Fasoli, *Federico Barbarossa* und Fasoli, *La Lega Lombarda*; jetzt dazu G. Dilcher, *La "Renovatio"*, und vor allem Dilcher, *Das staufische Herrschaftskonzept*; unter dem Gesichtspunkt der Wahrung des beiderseitigen honor Görich, *Die Ehre*, S. 291-302.

<sup>10</sup> In der Anzeige ihres Sieges über den Kaiser, gerichtet an die Bolognesen, widmen die Mailänder ihre Siegesbeute *domini pape et Italicorum communia*, C. Manaresi, *Gli atti del comune di Milano. Fino all'anno MCCXVI*, Milano 1919, nr. CII, S. 143.

<sup>11</sup> Vgl. die in Anm. 1 und Anm. 8 zitierten Autoren.

<sup>12</sup> *Quellen zur Verfassungsgeschichte des Römisch-deutschen Reiches im Spätmittelalter (1250-1500)*, hrsg. von L. Weinrich, Darmstadt 1983, nr. 10: Beschlüsse des Rheinischen Bundes 1256, März 17, c. 2. Die Akten des Rheinischen Bundes finden sich auch in MGH, *Constitutiones* II, n. 428 I-VI. Sämtliche Quellen zur Geschichte des Rheinischen Bundes als Regesten in K. Ruser (bearb.), *Die Urkunden und Akten der oberdeutschen Städtebünde vom 13. Jahrhundert bis 1549*, I, *Vom 13. Jahrhundert bis 1347*, Göttingen 1979, nr. 210-273.

dem Verhältnis zu dem von dem Staufer hinterlassenen Verfassungsrecht des Mainzer Reichs-Friedens von 1235, nach der Bedeutung für die sich entwickelnde zukunftsbestimmende föderale Reichsverfassung und für den späteren Zugang der Reichsstädte zum Reichstag auf<sup>13</sup>. Sogar ein späterer Träger des Friedensnobelpreises hatte sich in seiner Jugend wissenschaftlich mit dieser großen Friedensbewegung beschäftigt<sup>14</sup>. Auch wenn von den deutschen Städten keine so grundlegende Veränderung der europäischen Kultur wie das von den italienischen getragene Rinascimento ausging, so werden doch von der Geschichtsschreibung auch an den Rheinischen Städtebund historische Folgewirkungen geknüpft, die sich bis weit in die Neuzeit hinein erstrecken<sup>15</sup>.

Eine erneute Vergleichung der beiden städtebündischen Bewegungen – denn um solche handelt es sich, folgen doch im Laufe weniger Jahre jeweils ganze Reihen von Verbündnissen mit ständig wachsenden Teilnehmerzahlen aufeinander – will also versuchen, manche der schon aufgeworfenen Fragen etwas genauer und damit auch einige Antworten klarer zu fassen. Der zeitliche Abstand von etwa 90 Jahren, in welchem die deutsche Bundesbewegung der lombardischen folgt, stellt für eine solche Vergleichung kein Hindernis dar. Sie entspricht vielmehr dem zeitlichen Abstand, mit dem die deutsche Kommunebewegung dem Auftreten einer eidgenossenschaftlichen Kommunalverfassung in Oberitalien folgt. Die ersten Regungen der kommunalen Bewegung finden sich zwar fast parallel in Städtelandschaften des Nordens und südlich der Alpen schon im 11. Jahrhundert<sup>16</sup>. Dazu gehört auch das Auftreten conjurativer Zusammenschlüsse im Norden wie im Süden. Eine durch den Bürgereid geeinte Stadtbürgerschaft mit entsprechender Bürgerversammlung als Beschlussorgan unter der Leitung gewählter *consules*, damit das Konsulat beziehungsweise der Stadtrat als institutionelles Organ, findet sich in der Lombardei schon um 1100, in Deutschland in gefestigter Form aber erst um 1200<sup>17</sup>. Das Auftreten der Städtebünde in Oberitalien nach

<sup>13</sup> Vgl. E. Voltmer, *Der Rheinische Bund (1254-1256). Eine neue Forschungsaufgabe*, S. 117-143, bes. 4. "Die Forschung", S. 120 ff., in *Propter culturam pacis. Der Rheinische Städtebund von 1254/56*, Katalog, Koblenz 1986. Voltmer weist auf die politischen Implikationen des historischen Interesses für den Rheinischen Bund im 19. Jahrhundert hin. Dazu auch Distler, *Städtebünde*, S. 15-36 mit Fortführung bis zur Gegenwart, besonders auch im Hinblick auf die marxistische Geschichtsschreibung. Ausführlich dazu auch A. Buschmann, *Der Rheinische Bund von 1254-1257. Landfriede, Städte, Fürsten und Reichsverfassung im 13. Jahrhundert*, in H. Maurer (Hrsg.), *Kommunale Bündnisse*, S. 167-212.

<sup>14</sup> Ludwig Quidde veröffentlichte 1885 eine gehaltvolle Studie *Zur Geschichte des Rheinischen Landfriedensbundes*, wird dann langjähriger Vorsitzender der "Deutschen Friedensgesellschaft" und 1927 mit dem Friedensnobelpreis ausgezeichnet.

<sup>15</sup> Das Interesse des 19. Jahrhunderts in Deutschland galt den Elementen einer föderativen Struktur des Reiches, wie auch dem Städtebund als "Palladium deutscher Freiheit".

<sup>16</sup> K. Schulz, "Denn sie lieben die Freiheit so sehr". *Kommunale Aufstände und Entstehung des Europäischen Bürgertums im Hochmittelalter*, Darmstadt 1992.

<sup>17</sup> Zur Lombardei G. Dilcher, *Die Entstehung der lombardischen Stadtkommune*, Aalen 1967. Zu Deutschland K. S. Bader, G. Dilcher, *Deutsche Rechtsgeschichte. Land und Stadt, Bürger und Bauer im Alten Europa*, Berlin 1999, bes. S. 390 ff.: "Die Entstehung der Ratsverfassung", S. 400 ff.: "Die Entstehung der kommunalen Stadt".

1160, in Deutschland nach 1250 würde also diesem zeitlichen Abstand durchaus entsprechen. Diese zeitliche Parallelität spräche damit für eine strukturelle Verbindung zwischen der Form der Bürgerschaft und der des Städtebundes, wie sie immer wieder geäußert worden ist<sup>18</sup>. Natürlich ist dabei auch der jeweilige historische Anlass für die Verbindung der Städte mit zu berücksichtigen, nämlich im Fall des Lombardenbundes die Abwehr der Revindikationsansprüche Friedrich Barbarossas, bei dem Rheinischen Städtebund vielmehr die ungesicherte Lage des Landfriedens nach dem Tod Kaiser Friedrichs II. und die anschließende Schwäche des Königtums. Für den Vergleich wurde auch immer ins Feld geführt die Aussage der Annalen des Abtes Hermann von Niederaltaich, eines Zeitgenossen, das Friedensbündnis (*pax*) der Rheinischen Städte sei *more Lombardicarum civitatum* gebildet worden<sup>19</sup>; dabei kommt es weniger darauf an, ob Hermann mehr den ersten Lombardenbund gegen Friedrich Barbarossa (den er als Historiker und Verfasser der Annalen natürlich kannte) oder den zweiten Lombardenbund gegen dessen Enkel im Sinne hatte – war der zweite Lombardenbund doch aufgrund des Bündnisrechtes des Konstanzer Friedens von 1183 als Erneuerung des alten Lombardenbundes begründet worden<sup>20</sup>. Weil die gesamte Literatur dieser Vorbildfunktion des lombardischen für den Rheinischen Bund trotz dieser Aussage des Chronisten immer für fraglich gehalten und offen gelassen hat<sup>21</sup>, kann eine genauere Analyse auch hier mehr Klarheit bringen.

## 2. Phänomenologie und Entwicklung der beiden Städtebünde

Eine erste phänomenologische Betrachtung zeigt deutliche Ähnlichkeiten. Beide Städtebünde sind nicht wirkliche Neuheiten. Vielmehr wurden sowohl im Norden wie im Süden die Bildungen der kommunalen Stadtverfassungen fast von Anbeginn von Absprachen und Verträgen zwischen zwei oder mehreren Städten begleitet<sup>22</sup>. Die Stadtbürgerschaften und ihre Vertreter erkannten also früh – in beiden Bereichen schon seit Beginn des 12. Jahrhunderts – parallele Interessen und klärungsbedürftige Rechtsfragen, die offenbar spezifisch städtischer Natur waren und in dieser Weise im Bereich von Adel und bäuerlichen Grundherrschaften nicht auftraten. Das gleichberechtigte miteinander Verhandeln und rechtliche Paktieren

<sup>18</sup> Schulz, „Denn sie lieben die Freiheit“, bes. Kapitel VII. „Der lombardische Städtebund von 1167-1183. Eine gesteigerte Form der Kommune?“.

<sup>19</sup> Hermann Altahensis *Annales*, MGH, *Scriptores*, XVIII, S. 397.

<sup>20</sup> L. Simeoni, *Note sulla formazione della seconda Lega lombarda*, in L. Simeoni, *Studi su Verona nel medioevo*, 4 (= «Studi storici veronesi», XIII, 1962), Verona 1963, S. 281-353 (1932'); E. Voltmer, *Formen und Möglichkeiten städtischer Bündnispolitik in Oberitalien nach dem Konstanzer Frieden: Der sogenannte Zweite Lombardenbund*, in Maurer (Hrsg.), *Kommunale Bündnisse*, S. 97-116.

<sup>21</sup> Distler, *Städtebünde*, S. 10, M. Kaufhold, *Deutsches Interregnum und europäische Politik. Konfliktlösungen und Entscheidungsstrukturen 1230-1280*, Hannover 2000, S. 172.

<sup>22</sup> Fasoli, *La Lega Lombarda*; Distler, *Städtebünde*, Anhang S. 231.

von Bürgerschaften war damit schon angebahnt. Allerdings betont die gesamte Literatur zu Recht, dass die lombardische Liga wie der Rheinische Städtebund fast von Anfang an stärker politische Ziele und eine festere innere Struktur besaßen, als sie den vorausgehenden Verträgen und Verbindungen eigen waren. Schon hier soll erwähnt werden, dass sowohl der Lega lombarda wie dem Rheinischen Bund nicht nur Städte, sondern auch Fürsten und adlige Herren angehörten. Dennoch wird der Charakter als Städtebund in beiden Fällen kaum bezweifelt<sup>23</sup> und ist für den Rheinischen Bund durch die genaue und differenzierte rechtshistorische Untersuchung von Eva Marie Distler erneut bestätigt und befestigt worden<sup>24</sup>.

In beiden Fällen sind es, wie schon angedeutet, besondere politische Konstellationen, die die Charakteristik des jeweiligen Städtebundes begründeten.

### 2.1. Zur Lega Lombarda

In der Lombardei hatte Friedrich Barbarossa vor und nach dem Reichstag von Roncaglia eine erfolgreiche Politik betrieben, indem er die rivalisierenden lombardischen Städte gegeneinander ausspielte und besonders die von dem übermächtigen Mailand bedrohten Nachbarstädte, wie Como, Lodi und Cremona für eine kaisertreue Partei gewann<sup>25</sup>. Erst als zu Beginn der sechziger Jahre deutlich wurde, mit welcher Konsequenz Barbarossa die ihm auf dem Reichstag von Roncaglia 1158 zugesprochenen Regalien einzufordern und auszuüben gewillt war<sup>26</sup>, begannen sich die oberitalienischen Städte von dieser Politik gemeinsam bedroht zu fühlen und insofern Solidarität zu entwickeln. Vor allem war es die autonome Ausübung der Jurisdiktion, die die gewählten Konsuln auf der Grundlage der eidgenossenschaftlichen Verbindung der Bürgerschaft und der gewohnheitsrechtlichen Aneignung seit den ersten Jahrzehnten des 12. Jahrhunderts übernommen hatten, welche durch den Anspruch von *iurisdictio* und *districtus* und des Rechts zur Einsetzung der entsprechenden Magistrate durch die roncalische Gesetzgebung bedroht war; eine Bedrohung, die durch Eingriffe des Kaisers in die Rechtssprechung und die Ernennung kaiserlicher Podestà realisiert wurde<sup>27</sup>. Als zweite Bedrohung wurden die Versuche des Kaisers emp-

<sup>23</sup> Für den Lombardenbund ergibt sich das aus der historiographischen Tradition und dem Charakter der Urkunden, vgl. Vignati, *Storia diplomatica della Lega Lombarda*, und R. Perelli Cippo, *Lombardische Liga*, in *Lexikon des Mittelalters*, 5, c. 2100. Dazu vor allem Fasoli, *La Lega Lombarda*.

<sup>24</sup> Distler, *Städtebünde*, bes. S. 104 ff. Anders noch F.B. Fahlbusch, *Städtebund*, in *Lexikon des Mittelalters*, 8, c. 17: «Der Rhein. Bund v. 1254 ist "das erste gemischte Städte- und Adelsbündnis" (A. Buschmann) und somit nicht als Städtebund im eigentlichen Sinne aufzufassen». Dies ist durch Distlers Analyse korrigiert.

<sup>25</sup> F. Oppl, *Divide et impera*, in *Il Barbarossa e i suoi alleati liguri-piemontesi*, Atti del Convegno storico internazionale, a cura di G. Bergaglio, Gavi 1987, S. 85 ff.

<sup>26</sup> Haverkamp, *Herrschaftsformen*.

<sup>27</sup> Ch. Dartmann, *Die Legitimation von Amtsgewalt in den oberitalienischen Städten des 12.*



funden, aufgrund der zugesprochenen finanzträchtigen Regalien die Geldeinnahmen der aufblühenden Kommunen abzuschöpfen, eine Tendenz, die durch das roncalische "Steuergutachten" der Bologneser Doktoren (*Lex tributum*) unterstrichen wurde<sup>28</sup>. Erst als diese Bedrohung immer deutlicher wurde, erkannte man in den lombardischen Städten eine Interessengleichheit gegenüber der kaiserlichen Gewalt, die die Rivalitäten, die vor allem durch die Abgrenzungen der bis auf die Bistumsgrenzen (*episcopatus* oder *comitatus*) ausgedehnten städtischen Territorien entstanden, sowie die Furcht vor der Praedominanz Mailands über die Nachbarstädte überwand. So entstand durch Vertrag der Städte Bergamo, Brescia, Cremona, Ferrara und Mantua im März 1167 der Lombardenbund<sup>29</sup>, dem bald auch Mailand beitrug und der sich dann schnell fast wellenförmig erweiterte<sup>30</sup>. Wir haben, soweit die Dokumente überhaupt erhalten sind, teils Vertragstexte teils Eidesformulare, gemäß denen die Bürger der betreffenden Stadt denen der anderen Städte ihre Hilfe zuschwören. Dementsprechend werden sie meist *pax*, *pactum et concordia*, auch *iuramentum* oder *sacramentum* genannt. So beschreibt sie auch ein Chronist, der auch nicht vergisst, mit einem etwas ironischen Unterton (*palam*, also für die Öffentlichkeit bestimmt) die eingefügte Treueformel für den Kaiser (*salva fidelitate imperatoris*), aber auch deren genauere einschränkende Definition zu erwähnen<sup>31</sup>. Doch waren die Verträge von Anfang an als militärische Bündnisse für den Widerstand gegen den Kaiser angelegt<sup>32</sup>. Auf die Treueformel und auf die Rechtsbegründung für den Widerstand ist später bei der genaueren rechthistorischen Untersuchung einzugehen. Innerhalb kurzer Zeit wird der Bund dann auch *societas* genannt<sup>33</sup>. Die Verfassung des Bundes wird ausgebaut zu einem rechtlichen Gebilde mit eigener Gerichtsbarkeit und dem

*Jahrhunderts zwischen kaiserlichen Ansprüchen und kommunaler Praxis*, in *Gli inizi del diritto pubblico*, S. 327-348.

<sup>28</sup> V. Colorni, *Le tre leggi perdute di Roncaglia (1158) ritrovate in un manoscritto parigino*, in *Scritti in memoria di Antonio Giuffrè*, Milano 1967 (deutsch: *Die drei verschollenen Gesetze des Reichstages von Roncaglia*, übersetzt von G. Dolezalek, Aalen 1969).

<sup>29</sup> Vignati, *Storia diplomatica della Lega Lombarda*, "Jusiurandum pergamentum", S. 105-107.

<sup>30</sup> Die folgenden Dokumente finden sich auch bei Vignati, *La Lega Lombarda*, sowie in kritischer Edition bei C. Manaresi, *Gli atti*, ab dem Vertrag von 1167 März zwischen Cremona, Mailand, Mantua, Bergamo und Brescia, dort nr. L.

<sup>31</sup> Anonymus Lodensis (*Continuatio Ottonis Morenae*), in *Italische Quellen über die Taten Kaiser Friedrichs I. in Italien*, hrsg. von F.J. Schmale, Darmstadt 1986, S. 206 a. D. 1167. Dies entspricht dem Vertragstext bei Manaresi, *Gli atti*, nr. L, c. 9. Die einschränkende Formel findet sich schon in den vorausgehenden Verträgen, Vignati, *Storia diplomatica della Lega Lombarda*, wie nr. 29 und nr. 30: *salva imperatoris fidelitate; id est quod habeat suas res sicuti sui antecessores habuerunt a centum annis infra usque ad vitam regis Conradi*.

<sup>32</sup> Die gegenseitige Schutzverpflichtung enthielt immer Elemente gemeinsamer Verteidigung, was dann bei dem Eid der Rektoren ganz deutlich hervortritt. Schließlich sprach man nach Ausbruch des offenen Konfliktes von einer *guerra*, so schon in der Allianz der Städte der Lombardei und der Marken von 1167, Dec. 1, Manaresi, *Gli atti*, nr. LVI, c. 1.

<sup>33</sup> So schon in dem Bündnis mit Markgraf Obizo Malaspina 1168, Mai 3, Manaresi, *Gli atti*, nr. LXV, c. 1. In den späteren Verhandlungen mit dem Kaiser handeln die Städte immer auch als *societas*.

Führungsorgan von *rectores*, die von jeder Stadt aus der Reihe ihrer Konsuln ernannt werden<sup>34</sup>. Einzelne Autoren wollten diesem Bund, der ungezählte Städte der Lombardei und der Veroneser Marken, der Romagna (also ganz Oberitaliens) sowie Venedig umfasste, bundesstaatlichen Charakter zubilligen<sup>35</sup>, andere sprachen von internationalen, also völkerrechtlichen Beziehungen zwischen den Städten<sup>36</sup>. Diese Qualifizierungen greifen sicher zu hoch und sind anachronistisch, zeigen aber zutreffend, wie sehr sich der Bund über das Niveau der älteren Städteverträge erhoben hatte. Wie vor allem Haverkamp gezeigt hat<sup>37</sup>, erhielt sich dieses Gleichgewicht einer bündischen Struktur bis zum Waffenstillstand von Montebello 1175, während danach Mailand sich kraft seines Übergewichts zur politischen Führungsmacht aufschwingen konnte. Mit dem Frieden von Konstanz 1183, dessen Inhalt in mehreren Stufen der Verhandlungen zwischen der kaiserlichen Seite und den Städten festgelegt wurde, versandete der Bund gleichsam, obwohl er in diesem Frieden ausdrücklich mitsamt einem Bündnisrecht der Städte anerkannt wurde<sup>38</sup> und die beschworene Vereinbarung erst sehr viel später endete und auch formell 1195 erneuert wurde. So konnte die Wirksamkeit des Bundes auch gelegentlich wiederaufleben. Schließlich konnte sich der Zweite Lombardenbund gegen Kaiser Friedrich II. 1226 als Erneuerung des Ersten verstehen, weshalb der Kaiser den Frieden von Konstanz widerrief, um dem Bündnis die Rechtsgrundlage zu entziehen<sup>39</sup>. Schon aus der Geschichte des Bundes wird also deutlich, wie er seine Lebenskraft aus der Verteidigung der erreichten kommunalen Freiheit, Autonomie und Autokephalie gegen eine imperiale Politik bezieht. In dem Moment, in welchem eine solche kollektive unmittelbare Interessenverteidigung nicht mehr aktuell war, wirkte vor allem der Interessengegensatz zwischen größeren und mächtigen und kleineren und schwächeren Städten auflösend für den Bund.

## 2.2. Zum Rheinischen Städtebund

Die innere Verfassungssituation der Rheinischen Städte in der Mitte des 13. Jahrhunderts ist der der lombardischen Städte, etwa ein Jahrhundert frü-

<sup>34</sup> Dies wird deutlich in dem Eidesformular der Städte der Lombardei, der Mark, Venedigs und Ferraras 1167, Dec. 1, Manaresi, *Gli atti*, nr. LVI. Ihm ist ein Eidesformular der Rektoren angefügt. Ein weiteres Eidesformular der Rektoren von 1168 Manaresi, *Gli atti*, nr. LXIV: ... *faciam me caput et guidam ad deffendendum*...

<sup>35</sup> Bordone, *I comuni italiani*, mit Hinweis auf Vismara, *Struttura*. Bei ständig wechselnder Mitgliederzahl standen im Konstanzer Frieden dann 20 Städte auf Seiten des Bundes, MGH, *Friderici I. Diplomata*, Pars IV, nr. 844, S. 64.

<sup>36</sup> Bordone, *I comuni italiani*.

<sup>37</sup> A. Haverkamp, *La lega lombarda sotto la guida di Milano (1175-1183)*, in *La pace di Costanza. 1183. Un difficile equilibrio di poteri fra società italiana ed impero*, Milano 1984, S. 159-178.

<sup>38</sup> MGH, *Friderici I. Diplomata*, Pars IV, nr. 848, S. 73, c. 18.

<sup>39</sup> Simeoni, *Note sulla formazione*; Voltmer, *Formen und Möglichkeiten*, in Maurer (Hrsg.), *Kommunale Bündnisse*.

her, durchaus ähnlich. Daran zeigt sich der Unterschied der im Ansatz noch fast gleichzeitigen, in der Entfaltung jedoch späteren und auch schwächeren Urbanität und Kommunalität nördlich der Alpen. Die innere Einigung einer aus unterschiedlichen Ständen zusammengesetzten Bewohnerschaft zu einer eidgenossenschaftlichen, bürgerschaftlichen Kommune hat sich hier in einem längeren Prozess vollzogen, eine Führungsschicht ist aber hier ebenfalls anerkannt und besetzt die Leitungsämter von iudices und consules. Auch hier ist die Stellung der bischöflichen und sonstigen Stadtherren zurückgetreten zu Gunsten der kommunalen Verfassung. Doch bilden die deutschen Reichsbischöfe einen mächtigen Fürstenstand mit zumeist ausgedehnten Territorien neben jenen der weltlichen Fürsten, und das Land wird im übrigen von einem grundherrlichen, nichtstädtischen ritterlichen Adel beherrscht<sup>40</sup>. Die Städte bilden also, anders als in Oberitalien, eher bürgerliche Inseln in einer Feudalwelt. Doch auch hier ist der inzwischen entwickelte Handel eine Quelle kaufmännischen und damit bürgerlichen Reichtums, der den Städten und ihren Bürgerschaften wiederum eine Machtposition gegenüber Fürsten und Herren einräumt. Um einen für Letztere bedrohlichen Zusammenschluss zu verhindern, hatte König Heinrich (VII.) Eidgenossenschaften und Bünde aller Art durch Reichsspruch 1231, vor allem auf Betreiben reichsbischöflicher Stadtherren, verbieten lassen<sup>41</sup>, was allerdings einzelne Bünde nicht verhindern konnte.

So kommt es erst im Interregnum nach 1250, in der Situation widerstrebender Gegenkönige, des Darniederliegens jeglicher Ordnungsmacht zu jenem Bund der Rheinischen Städte zwischen Köln und Basel unter der Führung von Mainz und Worms vom Juli 1254, der sich innerhalb weniger Jahre zu einem Bund von über 60 Städten zwischen Bremen im Norden, Zürich und Regensburg im Süden ausweiten sollte<sup>42</sup>. Der Rhein als zentrale Schiene des Reiches mit den umgebenden Städtelandschaften blieb jedoch das Zentrum<sup>43</sup>. Mitglieder wurden nicht nur große und weitgehend autonome Bischofs- und Reichsstädte, sondern auch kleinere Städte und Orte. Letzteres war vor allem deshalb möglich, weil sich zunehmend adlige Herren und schließlich auch große Reichsfürsten dem Bund anschlossen. Schließlich erklärte sich sogar König Wilhelm von Holland zum Schutzherren des Bundes selbst.

Wegen dieser außerordentlich zahlreichen Beteiligung von Herren und Fürsten ist immer wieder bezweifelt worden, ob es sich eigentlich um einen Städtebund handele. Doch wird hieran festzuhalten sein<sup>44</sup>. Die erste Initiative geht eindeutig von den Städten um Mainz und Worms aus, und diese bleiben auch "Vororte" der Vereinigung, zu ihnen stößt dann Köln am Niederrhein

<sup>40</sup> Opll, *Friedrich Barbarossa*, S. 248 ff.

<sup>41</sup> MGH, *Constitutiones* II, nr. 299, S. 413 f.

<sup>42</sup> *Quellen zur Verfassungsgeschichte des Römisch-Deutschen Reiches im Spätmittelalter (1250-1500)*, hrsg. von L. Weinrich, Darmstadt 1983, nr. 5a-d, nr. 9, 10, 11; MGH, *Constitutiones* II, 428 I-VI, S. 580-585.

<sup>43</sup> Die Entwicklung ist gut dargestellt in *Propter culturam pacis*.

<sup>44</sup> Distler, *Städtebünde*, siehe auch die Bemerkung zu Anm. 24.

und Frankfurt mit den Wetterau-Städten. Vor allem aber sind es bürgerlich-städtische Interessen mit einer gewissen "antifeudalen" Tendenz, deren Schutz der Bund zu seinem zentralen Ziel erklärt: nämlich die Bewahrung des Landfriedens zum Schutz der kleinen Leute und des Handels, der mit dem Niedergang der königlichen Friedenswahrung, wie sie noch im Mainzer Reichsfrieden Kaiser Friedrichs II. von 1235 zum Hauptziel königlicher Gesetzgebung gemacht worden ist, darniederliegt. Vor allem adeliges Raubrittertum und adlige Fehdelust sind also die Gegner, und diese Ziele werden naturgemäß unterstützt, wenn sich Teile des Adels selber – nachträglich – dem Friedensbund anschließen, sei es aus Einsicht, sei es unter dem Druck des mächtiger gewordenen Bundes (wobei diese Adligen dann aber auch als erste von dem Bund wieder abfallen). Auf diese Weise konnte auch verhindert werden, dass von den Ritterburgen vor allem am Rhein immer neue Zölle erhoben wurden – ebenfalls eines der erklärten Ziele des Bundes. Wie beim Lombardenbund so änderte auch hier der Beitritt von Adligen nicht den Charakter des Städtebundes, sondern dient nur der besseren Durchsetzung der von den Bürgerschaften verfolgten Interessen. Geistliche und weltliche Fürsten konnten sich als Territorialherren – im Gegensatz zu dem fehde- und beutefreudigen ritterlichen Adel – mit dem Ziel der Friedenswahrung ohne weiteres identifizieren. Doch kommt es andererseits zwischen den Städten einerseits und Fürsten und Herren andererseits zu militärischen Auseinandersetzungen, die zwischenzeitlich zu einem Waffenstillstand führen. Dieser wird dann durch König Wilhelm von Holland im November 1255 unter königlichen Schutz genommen und eine Gerichtsbarkeit, unter dem Pfalzgrafen aber auch unter städtischen Amtsträgern, zur Schlichtung von Streitigkeiten eingerichtet<sup>45</sup>.

Wie beim lombardischen Bund, so ist uns auch hier kein Bundesarchiv überliefert, die Überlieferungslage vielmehr noch lückenhafter. Dem Chronisten, der den Bund erwähnt und ihn in Verbindung mit dem lombardischen Vorbild bringt, Hermann von Altaich, ist es wahrscheinlich zu verdanken, wenn wir aus zwei überlieferten Aktensammlungen wenigstens Kenntnis über einige zentrale Urkunden des Städtebundes besitzen<sup>46</sup>. Vor allem einzelne Aufnahmeurkunden sind aus städtischen Archiven überliefert. Quellen für eine geschlossene Geschichte des Bundes fehlen aber, vor allem für den Beginn und das Ende.

Nachdem sich der Bund nach dem Tod König Wilhelms zu einer Art Reichsvikar, zum Schützer der Reichsgüter und des Reichsfriedens *vacante imperio* erklärt hatte und die Städte sich für die Anerkennung nur eines rechtmäßig gewählten Königs ausgesprochen hatten und dieser Politik sogar Anerkennung und Erfolg beschieden schien, beendete die Doppelwahl Richards von Cornwall und Alfons' von Kastilien die Einigkeit. Alte

<sup>45</sup> *Quellen zur Verfassungsgeschichte*, hrsg. von L. Weinrich, nr. 9, MGH, *Constitutiones* II, 375, S. 477 f.

<sup>46</sup> Voltmer, *Der Rheinische Bund*, zu dem Chronisten oben Anm. 19.

Loyalitäten, die regionale Situation, die Haltung der unmittelbar benachbarten Reichsfürsten führen die Städte des Bundes in verschiedene Lager, so dass im Oktober 1258 der Bund als nicht mehr bestehend gelten kann<sup>47</sup>. Doch zeigen sich auch hier Nachwirkungen: viele regionale Städtebünde, am Mittel- und Oberrhein, in der Wetterau und in Westfalen bestehen weiter, ja man kann sagen, dass nach dem Ende des großen Rheinischen Bundes von 1254 das eigentliche Zeitalter der Städtebünde im spätmittelalterlichen Deutschland erst begonnen hat<sup>48</sup>.

### 3. Die rechtlichen Verfassungsstrukturen

Einen wirklichen Vergleich kann erst eine genauere rechtshistorische Analyse der beiden Städtebünde, nämlich des lombardischen und des Rheinischen, ergeben. Die Vielzahl von Dokumenten, von Bündnisvereinbarungen und Schwurformeln, die langjährige und sorgfältige Vorbereitung und Ausformulierung des Friedens zwischen dem Lombardenbund und dem Kaiser zeigen die große Bedeutung, die man dem Recht als Grundlage der Bünde wie für die Beendigung des Konfliktes gegeben hat. Eine solche genaue rechtshistorische Analyse muss vor allem das Verhältnis der beteiligten Einzelstädte und ihrer Bürger zu dem Bund, die Rechtsgrundlage des Bundes und seiner Legitimität im Verfassungsgefüge des Reiches behandeln. Zu diesem letzteren Punkt ist daran zu erinnern, dass die Entwicklung der Kommune und der Leitungs- und Jurisdiktionsgewalt der gewählten Konsuln in der ersten Hälfte des 12. Jahrhunderts die klassische Verfassungsstruktur des *Regnum Italicum* unterlaufen hatte, eine Situation, die Friedrich Barbarossa gerade durch seine Politik der Revindikation der Regalien – mit dem Höhepunkt des Reichtages von Roncaglia 1158 – verändern wollte. In Deutschland war in der Mitte des 13. Jahrhunderts die kommunale beschworene Bürgergemeinde unter Führung eines gewählten Rates privilegial weitgehend anerkannt<sup>49</sup>, doch blieb das Verhältnis der bischöflichen Stadtherren zur städtischen Autonomie vielfach ungeklärt, vor allem das Mittel der Eidverbrüderung (*conjuratio*) zur Durchsetzung bürgerlicher Rechte war unter König Heinrich (VII.) und Kaiser Friedrich II. noch ausdrücklich geächtet worden.

Bei beiden Bünden richtete sich das Interesse der Forschung von Anfang an auf deren politische Bedeutung, deshalb auf ihre Führungsstrukturen, ihre politischen Ziele und die Dynamik ihrer Entwicklung; weniger jedoch auf ihre Substrukturen und die rechtliche Legitimation ihres

<sup>47</sup> *Ibidem*, S. 135

<sup>48</sup> O. v. Gierke, *Das deutsche Genossenschaftsrecht*, I, *Rechtsgeschichte der deutschen Genossenschaft*, Nachdr. Darmstadt 1954, § 45 Die Städtebünde. Dazu analytisch genauer Distler, *Städtebünde*.

<sup>49</sup> Bader, Dilcher, *Deutsche Rechtsgeschichte*, bes. S. 390 ff.: "Die Entstehung der Ratsverfassung", S. 400 ff.: "Die Entstehung der kommunalen Stadt".

Zusammenhalts, wenn man von den zitierten Arbeiten von Vismara für Italien und Distler für Deutschland absieht. Gerade dies kann jedoch Bestand und Zerfall der Bünde und ihr Verhältnis zu Reichsgewalt und den feudalen Kräften in einer Zeit noch nicht ausgebildeter Staatlichkeit deutlich machen.

### 3.1. Zur *Lega Lombarda*

In den Anfängen des Lombardenbundes sind, nach dem Wortlaut der Dokumente, die tragenden Subjekte die Menschen der beteiligten Städte selbst: Im März 1167 wird eine *firma pax inter Cremonenses et Mediolanenses et Mantuanos et Pergamenses atque Brisianos* geschlossen<sup>50</sup>. Entsprechend schwören in dem folgenden Eidformular denn auch die *homines de Cremona* jenen der anderen Städte Schutz und Schirm für ihre Personen und Rechte in genau formulierten Wendungen zu. Die zeitliche Geltung des Eides – 50 Jahre – und die Erneuerung alle 10 Jahre werden festgelegt (c. 5). Erst bei der Möglichkeit, ergänzende Vorschriften hinzuzufügen, kommen die Konsuln der betreffenden Städte vor (c. 6). Die Vertreter der beteiligten Städte, die die Vereinbarung ausgehandelt haben (*composuerunt*), werden aber andererseits sorgfältig namentlich aufgeführt. Sie stehen eher anstelle der Urkundszeugen, während die Verbindlichkeit der Verpflichtungen auf dem Gesamtschwur der Bürgerschaft beruht. Auf die angefügte Fidelitätsformel gegenüber dem Kaiser und ihre vorsichtig begrenzende Definition werden wir sogleich eigens zu sprechen kommen.

Die Vereinbarungen heißen *pax*, *foedus*, dann auch *pax et concordia*, auch *iuramentum* oder *sacramentum*, auch *pax et sacramentum*<sup>51</sup>. Wie zutreffend die letzteren Bezeichnungen sind, zeigt sich in den zahlreichen, parallel zu den Bundesvereinbarungen überlieferten Eidesformularen der einzelnen Städte. Sie enthalten, teilweise in der Ich-Form – *ego iuro ad sancta Dei evangelia* – die genau ausformulierten Verpflichtungen, die die Städte gegeneinander eingegangen sind<sup>52</sup>. Auch dies bedeutet, dass es sich letztlich um eidlich übernommene Verpflichtungen jedes einzelnen Menschen in den betreffenden Städten gegenüber jedem Einzelnen in den anderen Städten handelt. Dem entspricht auch die Verpflichtung der Vereidigten, alle Mitbewohner zur Eidesleistung anzuhalten. Die Verträge und ihre Verpflichtungen sind zwar von den Vertretern der Städte ausgehandelt worden, sie werden dann aber in die Volksversammlung der jeweiligen Stadt (*concio*, *arengo*, *parlamentum*, *colloquium*) gebracht und dort durch den kollektiven Ruf «sia, sia, sia, sia» angenommen<sup>53</sup>. Erst die dritte Stufe ist dann die Vereidigung, die offenbar nacheinander gruppenweise, wohl ent-

<sup>50</sup> Manaresi, *Gli atti*, nr. L.

<sup>51</sup> So vielfach in Vignati, *Storia diplomatica della Lega lombarda*, und Manaresi, *Gli atti*.

<sup>52</sup> So etwa Manaresi, *Gli atti*, nr. LI, LII etc. bes. auch Manaresi, *Gli atti*, nr. LVI mit ergänzendem Eidesformular der Rektoren.

<sup>53</sup> Das erfahren wir aus der Notiz, die dem Eidesformular von 1167 Mai, Manaresi, *Gli atti*, nr. LIV, angefügt ist (dort S. 80), die über die Annahme *in publica contione Mediolani* berichtet.

sprechend den Nachbarschaften, geschieht und die Stadt selbst wie das Stadtgebiet (*contado*) betrifft. Für die Verbindlichkeit der Vereinbarungen – dies gilt auch später für die Friedensvereinbarungen des Bundes mit dem Kaiser – ist es aber zunächst wichtig, dass sich die verantwortlichen und Führungspersönlichkeiten an die Vereinbarung gebunden haben. Hier spielen natürlich auch die Konsuln der Städte eine wichtige Rolle; und so werden gewisse, meist kürzere Vereinbarungen (zunächst?) nur von diesen beschworen<sup>54</sup>. Auch bei Vereinbarungen mit einer Stadt wie Novara, für die der Bischof noch als Stadtherr auftritt, handeln auf der Gegenseite, für Mailand, die Konsuln<sup>55</sup>.

Wie in den Städten Konsuln und Podestà, so haben auch die Rektoren des Lombardenbundes einen Eid zu leisten, der den Katalog ihrer Amtspflichten enthält. An erster Stelle steht die Pflicht der (militärischen, *ad defendendum*) Führung (*faciam me caput et guidam*)<sup>56</sup>. Auch hier wird festgehalten, dass sich die Schutzpflicht auf alle, die diesem Eid beitreten, erstreckt. Diese wiederum sind an die Vorschriften (*precepta*) der Rektoren gebunden kraft der "Zwangsgewalt ihres Eides", *ex districto sacramenti*<sup>57</sup>, wie die Urkunde ausdrücklich betont.

Damit wird die Rechtsgrundlage des Bundes deutlich: Sie ist ein Eidesgeflecht, das einen geschlossenen Verfassungskörper bildet. Das ändert sich auch nicht, als sich dieser Bund *societas* nennt und mit der Nennung der Landschaften Lombardei, Mark (Verona), Romagna und Venetien fast eine territoriale Herrschaft beansprucht: maßgebend bleiben *homines huius societatis*, wiederum in Bezug auf die Eidesbindung<sup>58</sup>. Das – von Anfang an auf Widerstand gegen die Ansprüche des Kaisers angelegte – Bündnis stellt also ein Macht- und Herrschaftsgebilde dar, welches auf den Eid als "Sakrament der Herrschaft" (Paolo Prodi) gegründet ist<sup>59</sup>. Wie die Stadtverfassung in Italien originär durch *conjuratio* ins Leben gerufen worden ist (Max Weber)<sup>60</sup>, so gilt dies auch für die Verfassung des Lombardenbundes. Auch im übrigen sind die Parallelen, oder besser der

<sup>54</sup> Etwa Manaresi, *Gli atti*, nr. LIX und nr. LX und die Vereinbarung mit Obizo Malaspina nr. LXV.

<sup>55</sup> *Ibidem*, nr. LVII und LVIII.

<sup>56</sup> *Ibidem*, nr. LVI, 1167 Dec. 1, Anhang.

<sup>57</sup> So mehrfach betont, etwa 1167 Dec. 1, *ibidem*, nr. LVI c. 6; so auch beim Eintritt von Como *ibidem*, nr. LXIII c. 5.

<sup>58</sup> *Ibidem*, nr. LXX c. 1, Eid der Rektoren 1169: *quod bona fide sine fraude regam homines huius societatis*. Erst in c. 3 ist dann erwähnt *commune utilitatem omnium civitatum predictae societatis*.

<sup>59</sup> P. Prodi, *Il sacramento del potere. Il giuramento politico nella storia costituzionale dell'Occidente*, Bologna 1992 (Collezione di testi e di studi), S. 148 (deutsch: *Das Sakrament der Herrschaft. Der politische Eid in der Verfassungsgeschichte des Okzidents*, Berlin 1997).

<sup>60</sup> M. Weber, *Wirtschaft und Gesellschaft. Studienausgabe*, Tübingen 1972, S. 750: «Die eigentliche Heimat der *conjuraciones* war aber offenbar Italien. Hier wurde die Stadtverfassung in der weit überwiegenden Mehrzahl aller Fälle originär durch *conjuratio* ins Leben gerufen». Zur rechtshistorischen Entwicklung und den Belegen im einzelnen Dilcher, *Lombardische Stadtkommune*.

Modellcharakter der städtischen Kommune im Verhältnis zum Bund unübersehbar: das *parlamentum* als entscheidendes Gremium der Stadtgemeinde wie der Versammlung der Rektoren des Bundes, diese selbst als Führungsamt ähnlich den Konsuln, aus deren Reihen sie sich auch rekrutieren, ihre rechtsetzende Funktion in Form der *precepta*, schließlich die Gerichtsfunktion mit dem Schiedsgericht des Bundes und der Appellation an die Rektoren<sup>61</sup>.

Wir sagten, die Eidesverpflichtung der einzelnen Personen als Angehörige des Bundes ist derjenigen der Bürger in Bezug auf die Kommune nachgebildet. Sie ist ebenso wie die der Kommune auf rechtliche Verbindlichkeit unter einem Leitungsorgan (*consules, rectores*) und auf inneren Friedenszustand (*pax*) gerichtet<sup>62</sup>. Dann erhebt sich schon an dieser Stelle die Frage, warum der Eidesverband der lombardischen Liga so schnell zerfallen konnte. Einen Ansatz zur Beantwortung dieser Frage bieten Überlegungen, die Paolo Prodi, genau im Zusammenhang mit der roncalischen Gesetzgebung Friedrich Barbarossas und dem Lombardenbund, im Anschluss an Max Weber angestellt hat<sup>63</sup>. Weber unterscheidet unter dem Stichwort der "Gewalt des Eides" zwischen jenen archaischen Formen, die, etwa als Verbrüderungsverträge, den Status der beteiligten Personen grundlegend ändern, von jenen anderen ebenfalls eidlich geschlossenen Kontrakten, die die Herbeiführung von Leistungen oder Erfolgen zum Zweck haben, den Status aber unberührt lassen und damit keine neuen Genossen-Qualitäten entstehen lassen<sup>64</sup>. Nach Prodi könnten die geistigen Veränderungen durch die "päpstliche Revolution" den Weg für die zweite Form der Eidesbindungen frei gemacht haben. So wie es Prodi andeutet, können wir hier in der Tat zwischen der eidlichen Verbrüderung zur bürgerlichen Kommune und dem Verbund der Städte zur lombardischen Liga diese Bedeutungsverschiebung der eidlichen Verbindung beobachten: Die kommunale Verbrüderung im Bürgereid führte zu einer dauernden Statusänderung der ständisch unterschiedenen Beteiligten zu Angehörigen des Bürgerverbandes (*cives*) jenseits weiterbestehender ständischer Qualitäten, etwa als Angehöriger des Lehensadels (*milites et cives*)<sup>65</sup>. Der eidliche Verband der Kommune ist, nach wellenförmigen *conjuraciones* im 11. Jahrhundert, nach einer kurzen Zeit der Festigung auf Dauer errichtet<sup>66</sup>.

<sup>61</sup> Vismara, *Istituzioni*, S. 54 ff.

<sup>62</sup> Für die Kommune Dilcher, *Lombardische Stadtkommune*, bes. S. 153 ff.

<sup>63</sup> Prodi, *Il sacramento*, S. 149 f. und S. 160.

<sup>64</sup> Weber, *Wirtschaft und Gesellschaft*, S. 402.

<sup>65</sup> Dilcher, *Lombardische Stadtkommune*, bes. S. 135-137: "Die Einigung von *milites* und *cives*", und S. 142-153: "Die Kommune als Eidgenossenschaft". Ein lebendiges Bild der ständischen Vereinigung von *cives* und *milites* unter dem Zeichen des Stadtheiligen bietet die dortige Abbildung des Frieses im Tympanon von S. Zeno in Verona, Abb. hinter S. 135.

<sup>66</sup> Dilcher, *Lombardische Stadtkommune*; H. Keller, *Einwohnergemeinde und Kommune: Probleme der italienischen Stadtverfassung im 11. Jahrhundert*, in «Historische Zeitschrift», 224 (1977), S. 561-579.



Trotz der langen Dauer der Eidesbindung (10 bis 30 Jahre oder mehr) ist dieses bei dem Lombardenbund nicht der Fall: Er begründet Frieden, Schutz- und Hilfspflichten, aber keinen anderen Status für die eidesleistenden Bewohner von Stadt und *contado*. Er ist, im Sinne Max Webers, ein Interessen-Bündnis mit im Eidesformular genau definierten Zielen. Auch wenn zu ihnen das umfassende Friedensverhältnis der *pax et concordia* nicht nur zwischen den Städten, sondern allen dem Bündnis angehörenden Personen gehört, tritt doch keine Verbrüderung im Sinne einer Statusänderung ein. Vielmehr werden im Eidesformular die einzelnen Pflichten des gegenseitigen Verhältnisses genau aufgeführt und begrenzt. Im Sinne Max Webers überwiegt also der Charakter des Zweckkontrakts. Dem entspricht auch die Selbstbezeichnung als *societas*, die klassische Interessen- und Zweckgemeinschaft des römischen Rechts, die hier allerdings im Sinne der mittelalterlichen Entwicklung um Verbrüderungselemente und eine Außenvertretung erweitert ist<sup>67</sup>. Die innere Auflösung des Bundes – auch bei formellem Weiterbestehen der Eidesbindungen – ergibt sich also fast zwangsläufig in dem Augenblick, in dem der Bundeszweck erreicht ist, hier durch die Anerkennung der Kommunen und ihrer Regalienausübung im Konstanzer Frieden von 1183. Schon aus der genaueren Analyse der Struktur der Eidesverbindung des Lombardenbundes ist also der schnelle Zerfall oder genauer die fehlende Realität der Liga nach der Erreichung ihrer Ziele verständlich, kontrastiert mit der Festigung und dem Überdauern der städtischen Kommune.

Der wechselseitige Eid bildet also die Rechtsgrundlage der lombardischen Städteliga, *pax et sacramentum* tragen das neue Verfassungsgebilde. Dieses schafft sich dann nach kurzer Zeit als Führungsorgan das Kollegium der Rektoren, als Repräsentanten der verbundenen Städte und eine Art Ausschuss der Konsuln. Die Rektoren sind bald nicht nur militärische Führer, sondern sie regieren (*regere*) innerhalb der übertragenen Befugnisse den Bund. Sie erlassen *precepta*, die von allen zugehörigen Personen direkt aufgrund der Zwangsgewalt des Eides (*ex districto sacramenti*) zu befolgen sind. Ihnen ist auch eine Gerichtsgewalt über an sie herangetragene Klagen (*querimonias vel lamentationes*) übertragen, die sie nach der *ratio* (des römischen Rechts?), nach *bonum usum* oder nach den Satzungen der Rektoren (*quod a maiori parte rectorum civitatum constitutum fuerit*) zu entscheiden haben<sup>68</sup> – ein interessanter Ansatz einer Rechtsquellenlehre. Schließlich können sie (müssen aber nicht) über Appellationen entscheidend, nachdem in der Zuspitzung des Konfliktes Appellationen an den Kaiser aus-

<sup>67</sup> Die Erweiterung der römischen *societas* zu einer umfassenden Handelsgesellschaft mit Außenwirkung beschreibt klassisch Max Weber, *Zur Geschichte der Handelsgesellschaften im Mittelalter*, *Schriften 1889-1894*, hrsg. von G. Dilcher, S. Lepsius, Tübingen 2008 (Max Weber Gesamtausgabe. Abteilung I: Schriften und Reden, 1). Siehe vor allem Register s.v. *societas*. Vgl. auch P. Michaud-Quantin, *Universitas. Expressions du mouvement communautaire dans le moyen-âge latin*, Paris 1970, Kapitel 2, § 2: "Societas", S. 64-69.

<sup>68</sup> *Breve des Rektoreneides* ca. 1169, Manaresi, *Gli atti*, nr., LXX, c. 5.

geschlossen worden waren<sup>69</sup>. Ein weiterer Eingriff in das Gerichtsregal des Kaisers stellt die Befreiung vom Kalumnieneid in der Vereinbarung mit dem Kloster Chiaravalle dar<sup>70</sup>.

Die Rechtsauffassung des Bundes kollidiert also in zunehmend eindeutiger Weise mit der Verfassung des regnum und den kaiserlichen Rechten, wie sie kurz zuvor noch auf dem Reichstag von Roncaglia 1158 klargestellt worden waren. Andererseits suchte der Bund aber auch stets einen definiertes Verhältnis zum Kaiser als Repräsentanten der Legitimität herzustellen. Das beginnt mit den Fidelitätsformeln – *salva fidelitate imperatoris* –, die in den Verträgen zu Anfang und noch lange Zeit eingefügt sind. Doch wird der Treuevorbehalt von Anfang an genauer definiert und dadurch eingeschränkt und auf diese Weise der Gegenstand des Konfliktes zwischen den verbundenen Städten und dem Kaiser verdeutlicht: Die Städte berufen sich, ohne Berücksichtigung der Gesetzgebung von 1158, auf Brauch und Rechtsgewohnheit, juristisch auf Verjährung durch gewohnheitsrechtliche Anerkennung der kommunalen Praxis, erst mit 100 Jahren seit König Konrad, dann – historisch richtiger – seit dem Tod Kaiser Heinrichs V. Sie fordern damit Anerkennung der Kommunalverfassung, aufgrund deren die Usurpation der Gerichtsbarkeit durch die Konsuln erfolgt ist; daneben Beschränkung der finanziellen Forderungen des Kaisers aufgrund von Regalien, deren Ausübung die Städte gewohnheitsrechtlich beanspruchen<sup>71</sup>. Der Kaiser dagegen kann sich darauf berufen, dass nach römischem Recht, wie es in Roncaglia zur Anwendung kam, die Regalien als öffentliche Rechte nicht durch gewohnheitsmäßige Ausübung oder Verjährung entfremdet werden können.

Wenn es durch diesen Konflikt zum Kampf, zur *guerra contra imperatorem* kommt, so erscheint dies innerhalb der mittelalterlichen Rechtsauffassung als widerstandsrechtlich begründete Fehde. Recht steht gegen Recht, und die kaiserliche, "staatliche" Seite kann für ihr Recht nicht mehr Legitimität beanspruchen als die andere Seite der "Untertanen"<sup>72</sup>. Dieser haben gegen die kollektive Verletzung ihrer Rechtsposition zum kollektivrechtlichen Mittel der Eidesverbindung, der *conjuratio*, gegriffen<sup>73</sup>, nachdem die kaiserliche Politik der Differenzierung durch Einzelprivilegien und Sonderbehandlung eine Solidarisierung nicht mehr verhindern konnte; gerade eine solche war im Grunde durch die generellen Normierungen des Reichstags von Roncaglia provoziert, die als abstrakte normative Festlegung das System der Privilegien negierten. Die *conjuratio* des lombardischen Bündnisses stand also in jener Ambivalenz der Legitimität, wie sie Max

<sup>69</sup> Manaresi, *Gli atti*, nr. LXV, 1168 Mai, c. 7

<sup>70</sup> *Ibidem*, nr. LXXXII, 1172.

<sup>71</sup> Dilcher, *Das staufische Herrschaftskonzept*.

<sup>72</sup> F. Kern, *Gottesgnadentum und Widerstandsrecht im früheren Mittelalter*, Leipzig 1914, Neudr. Darmstadt 1980; O. Brunner, *Land und Herrschaft*, Nachdr. der 5. Auflage, Darmstadt 1973 (italienisch: *Terra e potere*, übersetzt von P. Schiera, Milano 1983).

<sup>73</sup> B. Kannowski, *Conjuratio*, in *Handwörterbuch zur deutschen Rechtsgeschichte*, 1<sup>2</sup>, c. 878-881.

Weber für die bürgerliche Eidverbrüderung als typisch dargestellt hat<sup>74</sup>: Sie wendet sich gegen eine traditionell legitime (und hier in Roncaglia überdies durch das römische Recht bestärkte) hierarchische Herrschaftsordnung und erscheint dadurch illegitim; sie begründete mit der auf Gott beziehungsweise auf Christus bezogenen Legitimität des Eides eine neue Rechts- und Herrschaftsordnung<sup>75</sup>. Es entsprach germanisch-mittelalterlichen Rechtsdenken, keineswegs aber dem in Roncaglia neu entdeckten römischen Staatsdenken mit dem *crimen lesae maiestatis*<sup>76</sup>, wenn Kaiser und Städtebund ihre kontrastierenden Rechtsstandpunkte als (fast) gleichberechtigte Verhandlungspartner zwischen 1175 und 1183 zum Ausgleich brachten<sup>77</sup>. Die Stufen des Ausgleichs schlagen sich in Verträgen und Schiedsgerichten nieder, erst die endgültige Beilegung, das heißt auch die Wiedereingliederung der Städte in die Hierarchie der Reichsverfassung, wird im Konstanzer Frieden 1183 in die dafür angemessene Form eines kaiserlichen Privilegs gefasst. Dass hierbei ein kunstvoller Kompromiss erzielt wurde, weder ein Verzicht des Kaisers noch der Städte auf ihre Rechtspositionen, sei noch einmal unterstrichen<sup>78</sup>: Dem Kaiser steht die oberste Gewalt der Jurisdiktion zu, so wie sie ihm in grundsätzlicher Weise in Roncaglia zugesprochen worden war; die entsprechende Befugnis der von den Städten gewählten Konsuln muss von ihm in förmlicher Delegation empfangen werden; ihm bleibt zudem die oberste Rechtsprechung in Form der Appellation. So wie sie es zuvor als Forderung formuliert hatten, verbleibt den Städten inhaltlich die durch die "kommunale Revolution" errichtete Konsulatsverfassung mit der autonomen, freilich durch Delegation legitimierten Gerichtsgewalt über Stadt und contado. Zur Frage der Legitimität und des Widerstandes ist noch hinzuzufügen, dass der Kaiser zur Zeit des Krieges sich im Konflikt mit dem Papst befand. Nicht ohne Grund wünschten deshalb die Städte, dass die Beendigung ihres Konfliktes mit der Versöhnung mit Papst und Kirche parallel liefen, wie es denn auch geschah.

<sup>74</sup> G. Dilcher, *Max Webers Stadt und die historische Stadtforschung der Mediävistik*, in *Max Weber und die Stadt im Kulturvergleich*, hrsg. von H. Bruhns, W. Nippel (Kritische Studien zur Geschichtswissenschaft, 140), Göttingen 2000, S. 119-143. Mit etwas anderer Betonung K. Schreiner, *Legitimität, Autonomie, Rationalisierung. Drei Kategorien Max Webers zu Analyse mittelalterlicher Stadtgesellschaften*, in *Die Okzidentale Stadt nach Max Weber*, hrsg. von C. Meier, München 1994, S. 161-212.

<sup>75</sup> Zu den kirchenrechtlichen Voraussetzungen der *conjuratio* vgl. J. Sydow, *Kanonistische Überlegungen zur Geschichte und Verfassung der Städtebünde des 12. und 13. Jahrhunderts*, in H. Maurer (Hrsg.), *Kommunale Bündnisse*, S. 213-230. Umfassender dazu Michaud-Quantin, *Universitas*.

<sup>76</sup> M. Sbriccoli, *Crimen lesae maiestatis. Il problema del reato politico alle soglie della scienza penalistica moderna*, Milano 1974.

<sup>77</sup> Vgl. etwa die concordia von 1175, Manaresi, *Gli atti*, nr. XCIV, die treuga von 1177, Manaresi, *Gli atti*, nr. CX und die folgenden Akte, und die weiteren Schritte zum dem Präliminarfrieden 1183 u. Konstanzer Frieden, Manaresi, *Gli atti*, nr. CXXXII ff. = MGH, *Friderici I. Diplomata*, nr. 843, 844, 848.

<sup>78</sup> Dilcher, *La "Renovatio" degli Hohenstaufen* (deutsch auch in «Historische Zeitschrift», 276 (2003), S. 613-646); Dilcher, *Das staufische Herrschaftskonzept*; Görich, *Die Ehre*.

### 3.2. Zum Rheinischen Städtebund

Während bei der lombardischen Liga zuerst die Vielzahl der Stadtbewohner (*homines de..*) als tragende Subjekte des eidlichen Zusammenschlusses genannt werden, erscheint im Gründungsdokument des Rheinischen Bundes die Rechtsform der beteiligten Kommunen genauer umrissen<sup>79</sup>: Der Friedensbund (*sancte pacis fedus*) wird geschlossen von Richtern, Ratsherren (*iudices et consules*) und allen Bürgern der genannten Städte, wobei mit der Bezeichnung *universi cives* der körperschaftliche Rechtsbegriff der *universitas civium* anklingt. Weitere, nicht namentlich benannte Städte werden als *alie civitates coniurate* aufgeführt. Auch hier kann *civitas* als Personenverband der Bürgerschaft verstanden werden. Von Anfang an werden die *civitates* als tragende Subjekte des Friedensbundes dargestellt, so wie sie dann auch später neben den Herren, die den Frieden beschworen haben, namentlich aufgezählt werden als *civitates confederate ad pacem generalem*. Spätere Vorschriften des Bundes, vor allem der erste Landfriede, zeigen aber deutlich, wie auch bei dem Rheinischen Bund die Eidesbindung des einzelnen von hoher Bedeutung ist, indem etwa derjenige, der nicht schwört, außerhalb des Friedens gestellt wird, wie es andererseits auch dem Charakter eines Landfriedens entspricht. Obwohl wir uns die tatsächlichen Abläufe der Willensbildung und der Vereidigung in den lombardischen Städten des späteren 12. Jahrhunderts und den rheinischen Städten in der Mitte des 13. Jahrhunderts wohl ähnlich vorstellen dürfen, erscheint in den deutschen Städten zu diesem Zeitpunkt also die Repräsentation der Stadt durch Rat und Bürgerschaft und das Verständnis der Bürgerschaft als *universitas* deutlicher ausgeprägt. Das mag auf den ersten Blick angesichts des rechtlichen Kulturgefälles von Süden nach Norden überraschen. Doch wird es verständlich, wenn man einerseits die verfassungsrechtliche Neuheit und den noch heftig umkämpften Charakter der lombardischen Stadtkommune vor dem Konstanzer Frieden von 1183, andererseits die weitgehende Anerkennung der städtischen Kommunalverfassung auch in Deutschland im Laufe des 13. Jahrhunderts in Betracht zieht. Die Verdammung aller genossenschaftlichen und kommunalen Verbindungen im Reiche im Reichsurteil König Heinrichs von 1231 und dem Edikt Kaiser Friedrichs von 1232<sup>80</sup> war Reaktion zu Gunsten einiger bischöflicher Stadtherren gewesen, unterhalb deren sich die Anerkennung der kommunalen Stadtverfassung mit Rat, Bürgerschaft und interner genossenschaftlicher Struktur fortschreitend vollzog. In der Situation des Interregnum konnten die Städte dann in die Lücke *vacante imperio* eintreten und als Ordnungsmacht auftreten, indem sie sich in einer wellenförmig sich ausbreitenden Bewegung zu einem Friedensbündnis, eben dem Rheinischen Bund zusammenschlossen. Gerade der Zweck des Bundes, die Friedenswahrung, erforderte auch das

<sup>79</sup> MGH, *Constitutiones* II, nr. 428 = Weinrich, *Quellen*, nr. 5a.

<sup>80</sup> MGH, *Constitutiones* II, nr. 299 und nr. 156.

Zusammengehen von Städten, Fürsten und Herren: nur so konnte eine flächendeckende Friedensdurchsetzung erreicht werden, stellten die Städte doch im Gegensatz zu Italien eher bürgerliche Inseln innerhalb der umgebenden Territorien dar. Die fürstlichen und hochadligen Herren, die den Frieden beschworen haben, werden deshalb immer wieder aufgeführt, und ihre Rechte und Pflichten werden auch neben denen der Städte in mehreren Dokumenten erwähnt. Auch wenn diese adlige Beteiligung stärker ist als die bei dem Lombardenbund, so hebt sie jedoch nicht den Charakter als Städtebund auf, wie E. Distler eingehend nachgewiesen hat. Initiative zur Gründung, Tagungen, dauernde Leitung und tragende Interessen waren städtisch, wie noch genauer gezeigt werden soll. Der "Anschluss" von Fürsten und Herren an den Bund und seine Friedensziele hebt diesen Charakter nicht auf<sup>81</sup>.

Der die Verfassung tragende Eidesverbund ist auf Zeit geschlossen und soll jeweils erneuert werden. Ihm treten weitere Mitglieder jeweils bei und werden in den Bund aufgenommen, wie es durch Urkunde des Vorortes Mainz für die Aufnahme Regensburgs förmlich bezeugt ist<sup>82</sup>. Die Politik des Bundes wird vor allem von dem städtischen Patriziat und den Amtsträgern der zentralen mittelrheinischen Städte wie auch der Wetterau-Städte betrieben, wobei Mainz und Worms formelle Vororte des Bundes werden. Wichtiges Organ der Willensbildung des Bundes ist die Tagung, das *colloquium*, für das teilweise feste Zeiten und Orte festgelegt werden<sup>83</sup>. Sie ist ganz ausgesprochen als städtische Versammlung ausgestaltet, wenn auch Vertreter der Fürsten und Herren dabei sein sollten. Um dieses Organ arbeitsfähig zu halten, sollen alle beteiligten Städte und Herren vier angesehene Männer als Gesandte (*nuncii*) benennen, von denen aber nicht alle notwendig bei der Tagung gegenwärtig zu sein brauchten. Sie sollen einmütig, im Gegensatz zum Lombardenbund also nicht mit Mehrheit, entscheiden. Die Versammlung kann Satzungen, wie etwa den Landfrieden, erlassen (*statuimus, constituimus*), in denen auch Einzelprobleme des Verbandes detailliert geregelt werden. Dazu gehören etwa, außer den unmittelbaren Fragen des Friedens, Fragen des Zinses auch im Hinblick auf die Juden, die Regelung von Pfand und Geiselhaf, weiterhin im Hinblick auf Konflikte zwischen Adel und Städten einerseits das Verbot der Errichtung von neuen Zollstätten<sup>84</sup>, andererseits der Aufnahme von Pfahlbürgern, also von ländlichen Untertanen des Adels in den Schutz der Städte<sup>85</sup>. Schließlich ist den

<sup>81</sup> Distler, *Städtebünde*, S. 120-123.

<sup>82</sup> MGH, *Constitutiones* II, nr. 435 = Weinrich, *Quellen*, nr. 11.

<sup>83</sup> Im Landfrieden des Bundes von 1254, c. 13 MGH, *Constitutiones* II, nr. 428 II = Weinrich, *Quellen*, nr. 5b. Vgl. auch den dritten Bundestag MGH, *Constitutiones* II, nr. 428 V = Weinrich, *Quellen*, nr. 5e.

<sup>84</sup> So schon im ersten Bundesdokument MGH, *Constitutiones* II, nr. 428 I = Weinrich, *Quellen*, nr. 5a, c. 2a.

<sup>85</sup> Im Landfrieden des Bundes MGH, *Constitutiones* II, nr. 428 II = Weinrich, *Quellen*, nr. 5b, c. 14.

genannten Gesandten (und dies entspricht schon der Regelung des vorausgehenden Bundes zwischen Mainz, Worms, Oppenheim und Bingen von 1254), eine Schiedsgerichtsbarkeit über auftretende Konflikte übertragen, und zwar *auctoritate plena sub debito iuramenti*, also nach Maßgabe eines eigenen Amtseides<sup>86</sup>, wie bei den Rektoren des Lombardenbundes. Sie hatten nach Minne, *amicabilis compositio*, oder nach Recht, *iustitia*, zu urteilen. Doch wurde deutlich, dass ihre Gerichtsgewalt keine echte Zwangsgewalt war, sondern nur auf Konsens beruhte: die Vertreter einer betroffenen Stadt konnten das Urteil aufheben, indem sie schworen, es entspräche nicht dem Recht ihrer Stadt.

Die Ziele des Bundes waren also vor allem Bewahrung des Friedens im Lande und auf den Land- und Wasserstraßen, daneben weiterer Schutz der bürgerlichen Handelsinteressen nicht nur vor Fehde und Raub, sondern gegen Vermehrung der Zölle und Gefährdung der Sicherheiten (Geiselhaft, Bürgschaft und Pfand)<sup>87</sup>. Zu diesem Zweck baute der Bund über den Beitrittseid ein System von Freund- Feindverhältnissen auf. Es wurde abgesichert durch Drohung, durch Wirtschaftssanktionen, durch Herrschaft über den Rhein sogar mittels einer Kriegsflotte, schließlich durch ein militärisches Aufgebot der Städte, mit dem adlige Friedebrecher und Feinde auch mehrmals in die Knie gezwungen wurden<sup>88</sup>. In Zusammenhang mit dem emphatischen Aufruf zur Friedenswahrung, mit an die Gottesfriedensbewegung erinnernder Anrufung Jesu Christi, ist die Ausdehnung des Schutzes auch auf die Armen und Schwachen, auf Geistliche und Religiösen, auf die Juden und auch auf die bäuerliche Bevölkerung zu betonen. Insofern gehen die Ziele des Bundes über unmittelbaren Schutz der Stadtbürger und ihrer Handelsinteressen hinaus, umfasst breitere Schichten und erhöht dadurch den Druck der Friedensbewegung, vor allem gegen den fehdefreudigen und gewaltbereiten Adel. Auf diese Weise wird auch die Befriedung des flachen Landes stärker in den Blick der Friedensbewegung gerückt.

König und Reich bleiben im Gründungstext des Bundes von Juli 1254 noch außen vor, finden dann im ersten Landfrieden vom Oktober 1254 ganz kurz Erwähnung<sup>89</sup>. Das könnte mit der Erinnerung an die repressive Politik der Staufer gegen alle bürgerlichen Einungen (*confederationes, coniurationes* etc.) zusammenhängen. Der Beitritt höchster Reichsfürsten gibt dem Bund eine gewisse Legitimation; Legitimation wird aber vor allem in den religiösen Anrufungen Christi als *amator et auctor pacis* gesucht. Also ein Bündnis am Rande der reichsrechtlichen Rechtslegitimationen, denkbar in

<sup>86</sup> So in der Satzung des ersten Bundestages, MGH, *Constitutiones* II, nr. 428 I = Weinrich, *Quellen*, nr. 5a, c. 4. Dort auch die genannten Verfahrensweisen und c. 5 die Möglichkeit, das Urteil durch Eid aufzuheben.

<sup>87</sup> Dazu im Landfrieden MGH, *Constitutiones* II, nr. 428 II = Weinrich, *Quellen*, nr. 5b, c. 8 und 9.

<sup>88</sup> Vgl. etwa Ruser (bearb.), *Die Urkunden*, nr. 215, 217.

<sup>89</sup> Im Landfrieden MGH, *Constitutiones* II, nr. 428 II = Weinrich, *Quellen*, nr. 5b im Prolog: *ad honorem dei et sancte matris ecclesie necnon sacri imperii, cui nunc preest serenissimus dominus noster Willelmus Romanorum rex, et ad communem utilitatem ...*

diesem Umfang und mit diesen Zielen erst nach dem Zusammenbruch der staufischen Herrschaft und ihres monarchischen Herrschaftsanspruchs.

Mit der Wahrung des Friedens und der Aufrichtung einer Friedensordnung nahmen die Städte, zusammen mit den beitretenen Edlen und Herren, eine zentrale Aufgabe des Königtums wahr. Kaiser Friedrich II. hatte sie in neuer Weise in die Hand genommen, indem er in Mainz 1235 einen Reichsfrieden in Form eines Reichsgesetzes verkünden ließ<sup>90</sup>. Ohne der Frage der Kontinuität zum Mainzer Reichsfrieden im einzelnen nachzugehen, lässt sich jedenfalls feststellen, dass die auf der Grundlage der Einung errichtete Friedensordnung des Rheinischen Bundes die Lücke auszufüllen versucht, die durch die fehlende Durchsetzung des Mainzer Reichsfriedens infolge der Schwäche der königlichen Gewalt sich eröffnet hatte. Damit übernimmt der Bund Funktionen der Königsgewalt und des Reiches. Dies, eigentlich eine Anmaßung, wird positiv aufgenommen, indem König Wilhelm im November 1255 den vom Bund erlassenen Frieden bestätigt und damit in die gerichtliche und rechtliche Ordnung des Reiches einfügt<sup>91</sup>. Nach dem Tod König Wilhelms tritt der Bund nun ausdrücklich in die Lücke *vacante imperio* und handelt über die Friedensaufgabe hinaus für das Reich, indem er das Reichsgut in seinen Schutz nimmt und Voraussetzungen für eine einheitliche Königswahl zu schaffen versucht<sup>92</sup>. Damit begeben sich die im Bund vereinigten Städte in den Bereich der höchsten Aufgaben der Politik des Reiches und erscheinen dementsprechend auch auf den Reichstagen und verhandeln dort mit Fürsten und Herren. Durch die folgende Doppelwahl von Richard von Cornwall und Alfons von Kastilien scheitert diese gemeinsame Anstrengung und in der Folge fällt auch der Bund selber auseinander. Doch darf dieses Scheitern nicht den Blick auf das erstaunliche Ergebnis der kurzen Existenz dieses Bundes verdecken: Aus einer Situation heraus, in der der Verdacht der Illegitimität immer noch über den städtischen Kommunen, der Autonomie ihrer Ratsverfassung und ihren genossenschaftlichen Verbindungen lag, in der gar städtische Bünde und Einungen reichsrechtliche Repressionen zu gewärtigen hatten, aus dieser Situation erhebt sich der Städtebund zur zentralen Kraft der Friedenswahrung im Reiche, zum Partner von Fürsten und Herren, schließlich gar des Königs. Die grundsätzliche Legitimität der städtischen Verfassung war nun nicht mehr zu bezweifeln, die Rolle der großen und autonomen Städte im Verfassungsleben des Reiches eine Tatsache und damit auch der Weg zur Teilnahme am Reichstag geebnet.

<sup>90</sup> Den Charakter des Mainzer Reichsfriedens Friedrichs II von 1235 als "Reichsgrundgesetz" und das Anknüpfen des Rheinischen Städtebundes und seines Landfriedens an diesen betont in neuerer Zeit vor allem Buschmann, *Der Rheinische Bund von 1254-1257*, in Maurer (Hrsg.), *Kommunale Bündnisse*, S. 192 ff., S. 197 ff.

<sup>91</sup> MGH, *Constitutiones* II, nr. 375 = Weinrich, *Quellen*, nr. 9.

<sup>92</sup> Beschlüsse des Rheinischen Bundes von 1256 März, MGH, *Constitutiones* II, nr. 434 = Weinrich, *Quellen*, nr. 10.

#### 4. Rechtsformen, Ziele und Funktionen der Städtebünde im Vergleich

Zum Abschluss soll nun noch ein unmittelbarer Vergleich des lombardischen und des Rheinischen Städtebundes wenigstens skizziert werden. Der Zeitunterschied von fast einem Jahrhundert, der zwischen den Bünden liegt, soll dabei als Maßstab auch des Entwicklungsgefälles zwischen Süd und Nord dienen. Nicht voll einbezogen werden kann dabei die zweite lombardische Liga von 1226 gegen Friedrich II., da sie sich in einem sehr andersartigen historischen Umfeld vorfindet. Doch bleibt festzuhalten, dass diese zweite Liga sich selbst als Erneuerung der ersten in deren Rechtsform verstand und auch vom Kaiser so angesehen wurde.

Grundtatsache für die Lombardischen wie für den Rheinischen Bund ist die bürgerliche eidgenossenschaftliche Kommune, die durch ihre gewählten Konsuln bzw. Stadträte handelt. Die Kommunen stellen ein neues Verfassungsgebilde der mittelalterlichen Welt dar, das sich erst wenige Jahrzehnte zuvor als autonome Bewegung der Bürgerschaften gebildet hatte und noch um seine Anerkennung rang. Ein Hindernis dabei bestand darin, dass eine eidliche Verbindung sowohl in der Sicht des Kirchenrechts wie des weltlichen Rechts des Reiches als *coniuratio vel conspiratio* böse und unerlaubt erschien, jedenfalls insoweit sie gegen die bestehende Ordnung gerichtet war. Die beiden Bünde umschifften dieses Hindernis auf jeweils unterschiedliche Weise aus der jeweiligen politischen und rechtlichen Situation heraus. Der lombardische Bund gewann die Unterstützung der Kirche, deren Jurisdiktion der Eid unterlag, und er offenbarte seinen Widerstandscharakter durch Weglassen der Formel *salva fidelitate imperatoris* erst in einem Moment, in welchem die Treubeziehungen durch die Exkommunikation des Kaisers ruhten. Nach der Beilegung des Streites mit dem Papst war der Weg zur Vereinbarung des Konstanzer Friedens 1183 geöffnet, in welchem der Kommunaleid mit dem Treueid gegenüber dem Kaiser verbunden wurde und das Bündnis der Städte als *societas* Anerkennung fand. Damit war die rechtliche Legitimation des Städtebundes gegeben. Der Rheinische Bund konnte sich dagegen als Eidgenossenschaft, welche ja unter Friedrich II. noch mit heftigen Verboten belegt worden war, offenbaren, weil er sich von vornherein unter das Dach des Friedens als eines höchsten kirchlichen und reichsrechtlichen Zieles stellte. Indem er sich als Landfriedensbündnis gab, war hier auch der eidgenossenschaftliche Charakter nicht mehr gewöhnungsbedürftig, waren doch die Landfrieden stets auch auf die Grundlage kollektiver Vereidigungen gestellt worden. Die folgende ausdrückliche Anlehnung des Bundes an König und Reich war dann nur eine konsequente Fortführung. Dieser Weg war allerdings erst durch die Schwäche des Königtums nach den Staufern denkbar geworden.

Mit der in der zweiten Hälfte des 12. Jahrhunderts noch fehlenden grundsätzlichen Anerkennung der Kommune und der zu Grunde liegenden bürgerlichen *conjuratio* mag es zusammenhängen, dass in der ersten lombardischen Liga der Zusammenschluss zwar von den Konsuln und Rektoren



der Städte vereinbart, aber nach den überlieferten Dokumenten vor allem durch Einzelschwur der Bürgerschaften und Bewohner verbindlich gemacht wurde. Erst langsam tauchen in den Dokumenten die *civitates* als Träger des Bundes deutlicher hervor. Beim Rheinischen Bund erscheinen dagegen von Anfang an neben den Führungs- und Amtspersonen *universi cives* und *civitates coniurate*, neben den eidgenossenschaftlich verbundenen Fürsten und Herren. Der Charakter der Bürgerschaft als rechtlich vereinte und durch ihre Repräsentanten handlungsfähige Körperschaft – und nicht nur als “Gesamtvielheit” von Personen – zeigt sich also im Norden in der Mitte des 13. Jahrhunderts in deutlicherer Form. Insofern ist, abgesehen von dem zeitlichen, ein Rückstand des Nordens nicht festzustellen.

Trotz der rechtlich bedenklichen Form eines eidgenossenschaftlichen Bundes, der Rechte des Königs und des Reiches wahrnimmt, ist also die eidgenossenschaftliche Grundlage der beiden Städtebünde überraschend ähnlich gestaltet: Sie beruht auf dem Eidesverband der Bürger, der sich gegen die aristokratische Rechtsordnung des Reiches eigene Repräsentanten geschaffen hatte, diese jeweils wählte und für sie hoheitliche Rechte über die Bürgerschaft beanspruchte. Genau dies ist der Punkt, an welchem Max Weber (in einer allerdings umstrittenen Formulierung) von dem “illegitimen” Charakter der Stadtverfassung spricht<sup>93</sup>. In Bezug auf die Wahrnehmung hoheitlicher, königlicher Rechte durch im Bund vereinte städtische Bürgerschaften liegt eine solche Illegitimität sicher in beiden Fällen vor. Die Überwindung der Illegitimität geschah dann in unterschiedlicher Weise: Die Lombardische Liga setzte als “Widerstandsbündnis” ihre zentralen Anliegen im Kampf mit dem Kaiser durch, der Rheinische Bund setzte sich als “Verfassungsbündnis” zunächst an die Stelle des Königtums<sup>94</sup>. ihm wird dann von König Wilhelm rechtlich Legitimität zuerkannt.

Auch oberhalb der übereinstimmenden Grundstruktur der Bürgerschaften (*civitates*) und der von ihnen gewählten und mit obrigkeitlichen Rechten ausgestatteten Repräsentanten (*consules*) sowie des eidgenossenschaftlichen Charakters des Bundes selbst, zeigen die rechtlichen Strukturen im Süden und im Norden erstaunliche Ähnlichkeiten. Aus den Reihen der städtischen Repräsentanten werden die Führer des Bundes gewählt, die den Bund politisch und militärisch leiten sollen. Die Befugnisse der *rectores* des Lombardischen Bundes sind dabei deutlicher formuliert, als die der *nuntii* des Rheinischen; dies ist wohl der größeren militärischen Gefährdung im Kampf gegen Barbarossa zuzuschreiben. Hinter der Kollegialität der Führungsämter verbirgt sich in beiden Fällen der politische Führungsanspruch neuer städtischer Eliten, einer “Konsulatsaristokratie” in Oberitalien, eines aus Ministerialen und Kaufleuten entstehenden “Patriziats” in Deutschland. Tatsächlich werden die Bünde weitgehend gelei-

<sup>93</sup> Dazu Dilcher, *Max Webers Stadt*, mit weiteren Hinweisen auf die Literatur.

<sup>94</sup> Die Begriffe “Widerstandsbündnis” und “Verfassungsbündnis” wurden auf der Konstanzer Tagung von 1983, vgl. Maurer (Hrsg.), *Kommunale Bündnisse* geprägt.

tet durch die Macht einiger Städte, in der Lombardei vor allem Mailands, am Rhein von Mainz, Worms und dann auch Köln.

In beiden Fällen ist das maßgebende Organ des Bundes die Versammlung, das *colloquium* der Mitglieder bzw. der von ihnen benannten *rectores* beziehungsweise *nuntii*. Diesem Organ des Bundes kommt eine Gesetzgebungsbefugnis zu, die sich beim Rheinischen Bund vor allem auf den Hauptzweck, den Landfrieden, richtet. Aber auch der lombardische Bund setzt zahlreichen Normen für seine Mitglieder, die hier in den Eiden der Beteiligten verbindlich gemacht werden. Aber auch im Rheinischen Bund zeigt sich der Eid als Grundlage der Normgeltung.

Neben der Setzung von Normen errichten beide Bünde eine Schiedsgerichtsbarkeit über mögliche Konflikte, die in die Hand der Führungsämter (*rectores*, *nuntii*) gelegt wird. Auch hier wird in beiden Fällen der Eid ausdrücklich als Grundlage benannt: In fast gleichlautenden Formulierungen beim Lombardenbund als Gewalt *ex districto sacramenti*, beim Rheinischen Bund als *auctoritas sub debito iuramenti*<sup>95</sup>: Ein beredtes Zeugnis für den Eid als "Sakrament von Herrschaft" (P. Prodi), hier also des jeweiligen Bundes als eines neuerrichteten Herrschaftsverbandes. In beiden Fällen zeigt sich aber auch die Schwäche der Durchsetzbarkeit innerhalb des Bundes, da eine klar legitimierte Zwangsgewalt wie in der Kommune selbst fehlt. In Oberitalien wird diese Zwangsgewalt dann nach dem Konstanzer Frieden vom Kaiser auf die Konsuln der Einzelstädte übertragen. Am Rhein setzt König Wilhelm dann an Stelle des Schiedsgerichts auf seinen Hofrichter, vor allem aber auf die Reichsschultheißen der Städte<sup>96</sup>, die ja die reichsrechtliche Legitimation zur Gerichtsbarkeit besaßen. Vor allem in Bereich von Gericht und Zwangsgewalt zeigt sich also die Schwäche in der Struktur der Städtebünde, ihre durch die Eidesbindung nicht voll geheilte Illegitimität, die hier durch die königliche ergänzt oder ersetzt wird.

Der Vergleich der Rechtsstrukturen der beiden Bünde zeigt also eine ganz weitgehende formale Übereinstimmung im Lichte der rechtshistorischen Analyse. Der Satz des Hermann von Alteich, der Rheinische Friedensbund sei *more Lombardicarum civitatum* geschlossen, erscheint also im Hinblick hierauf voll gerechtfertigt. Zu bemerken ist hierzu auch, dass Hermann seine intime Kenntnis der italienischen Verhältnisse auch dadurch erweist, dass er das Rechtswort *societas* verwendet, allerdings auf den Rheinischen Bund bezogen, der sich selbst nicht so nennt. Wir können allerdings nicht nachweisen, ob die Parallelität der Verfassungsstrukturen auf der bewussten Nachahmung des italienischen Vorbildes beruht (was angesichts der Weltkenntnisse der rheinischen Kaufmannschaft durchaus denkbar ist), oder ob für die Ähnlichkeit die übereinstimmenden Strukturen der städtischen

<sup>95</sup> Zum Lombardenbund siehe oben Anm. 57, beim Rheinischen Bund Nachweis Anm. 86.

<sup>96</sup> Bestätigung des Landfriedens des Rheinischen Bundes 1255 durch König Wilhelm MGH, *Constitutiones* II, nr. 375 = Weinrich, *Quellen*, nr. 9, c. 5: Verweisung auf die Schultheißen von Bopphard, Frankfurt, Oppenheim, Hagenau, Colmar.

Kommunen als Träger der Bünde maßgebend ist. Möglicherweise kommt beides zusammen.

Die hier festgestellte Parallelität in den rechtlichen Strukturen der Städtebünde südlich und nördlich der Alpen dient wohl vor allem der Durchsetzung bürgerlicher Wirtschaftsinteressen gegenüber den aristokratisch-monarchischen Herrschaftsstrukturen. Dies verlangte in den fraglichen Situationen eine Zusammenfassung der Energien der Einzelkommunen. Es bedient sich des elementaren Mittels der Eidesbindung, mit Prodi also des "sacramento del potere", zur Bildung einer suprakommunalen Verfassungsform.

Der größte und übereinstimmende Erfolg der beiden Bünde, des lombardischen und des rheinischen, liegt aber im politischen und verfassungsrechtlichen Bereich: Sie erreichen in einer zumindest unklaren rechtlichen Situation die Anerkennung der städtischen Repräsentanten und damit der kommunalen Stadtverfassung von Seiten des Königs und der Großen des Reiches. Diese Anerkennung erfolgt in Italien durch den Konstanzer Frieden von 1183 in höchst formeller Form, und es war wohl ein politischer Fehler Friedrichs II., in seiner Politik nach 1226 nicht an dieser Anerkennung anzuknüpfen. In Deutschland konnten nach 1254 durch das schwache Königtum des Interregnum die kommunalen genossenschaftlichen Strukturen und das Auftreten städtischer Repräsentanten auf der Ebene der Reichspolitik nicht mehr verdrängt werden, so wie es noch die Städtepolitik der letzten Staufer versucht hatte. Der Weg zu Städtebünden als verbreitetem Phänomen innerhalb der Reichsverfassung war für die Zukunft ebenso geebnet wie der Zugang der führenden Städte zu Kaiser und Reichstag. In beiden Fällen war damit die Anerkennung der Stadtverfassung über den Bereich der Einzelprivilegierung herausgehoben. Jene Historiker des 19. Jahrhunderts, italienische wie deutsche, die dies als welthistorischen Auftritt des Bürgertums feiern<sup>97</sup>, haben sich wohl eher in der anachronistischen Wortwahl vergriffen, liegen in der Sache aber in beiden Fällen nicht ganz falsch.

In zwei Beziehungen unterscheidet sich aber die Lage zwischen Oberitalien und Deutschland grundsätzlich: Einmal handelt es sich bei dem Lombardenbund um eine unmittelbare Auseinandersetzung zwischen Königtum und Städten über die Innehabung der Regalien, während in Deutschland eine solche Konfrontation nicht stattfand, sondern größtenteils noch die Stadtherren eine Zwischenebene bildeten und im übrigen das Prinzip der individuellen Privilegierung galt. Zum zweiten war in Oberitalien der Erwerb der Gewalt der Städte über den Contado schon weit fortgeschritten, so dass die Städte weitgehend als Herren des gesamten Territoriums erschienen. Sie hatten den Adel mit seinem (zum Teil auch lehnrechtlichen)

<sup>97</sup> Vgl. dazu Fasoli, *Federico Barbarossa*, sowie Fasoli, *La Lega Lombarda* und A. Haverkamp, *Der Konstanzer Friede zwischen Kaiser und Lombardenbund (1183)*, in Maurer (Hrsg.), *Kommunale Bündnisse*, S. 11-44.

Landbesitz weitgehend in die Stadt integriert. Jene Fürsten und Herren, die sich dem lombardischen Bund teilweise anschlossen, hatten ihre Herrschaftsgebiete außerhalb der eigentlichen Städtelandschaften. Die Bischöfe ihrerseits hatten ihre reichsrechtliche weltliche Stellung gegenüber den Städten schon zuvor zu Gunsten der städtischen Konsuln aufgegeben<sup>98</sup>. So beherrschten die Städte, vor allem in der Ebene der Lombardei und Venetiens, in der Romagna und der Toskana, weitgehend das umliegende Territorium und damit relativ geschlossen das ganze Land. Gleichzeitig standen sie für weite Teile des italischen Reiches dem König und Kaiser als ein geschlossener Stand oberster Träger der Herrschaft gegenüber, als unmittelbare Träger der Regalien im obersten Rang in der Hierarchie.

Dies hatte vor allem zwei Konsequenzen. Im Städteraum Oberitaliens war die Errichtung des Landfriedens, anders als in Deutschland, kein Ziel der Städte. Die deutsche Landfriedensbewegung richtete sich ja vor allem gegen die Fehdeführung und Gewaltbereitschaft des kleinen und mittleren Adels, die den Handel wie auch die bäuerliche Landwirtschaft bedrohten. Das war in Deutschland noch die Situation des Spätmittelalters. In Italien war der Adel aber weitgehend in die Städte eingezogen oder doch in sie integriert, so dass seine Auseinandersetzungen eher als "politische" innerhalb der Stadt und von städtischen Fraktionen stattfanden. Die Parteilung in Guelfen und Ghibellinen ist Ausdruck dessen. Auch die beiden Darstellungen Ambrogio Lorenzettis von *pax* und *concordia* unter der *iustitia* gegen *guerra*, *divisio* und *Tyrannis* in der Stadt (*Il buon governo*, *Il mal governo*) im Rathaus von Siena repräsentieren in der Gesamtdarstellung und in vielen Einzelheiten noch deutlich diese Situation.

Damit sind wir historisch bei jenem Thema angelangt, dem Giorgio Chittolini ein Hauptteil seines Werkes gewidmet hat: Aus der oberitalienischen Stadtkommune wächst ein politisches Gebilde, ein "stato cittadino", der die alten Episkopats- und Grafschaftsgrenzen als Territorium, als *contado* beansprucht und darüber hinaus versucht, andere Städte mit ihren Territorien seiner Gewalt zu unterwerfen. Dies ist die Grundlage zu einer ganz anderen Form der Staatsbildung in Italien als diejenige in Deutschland, bei der fürstliche Territorien als Substrat dienen, innerhalb und zwischen denen die Städte eher bürgerliche Inseln bilden. Giorgio Chittolini hat dieses Problem, auch vergleichend<sup>99</sup>, in einer Vielzahl von Arbeiten immer wieder beleuchtet. Dieses unterschiedliche Grundverhältnis von Stadt und Land zeigt sich im Ansatz schon in den betrachteten Städtebünden und markiert einen wesentlichen Unterschied zwischen jenen der Lombardei und denen Deutschlands, ungeachtet ihrer festgestellten formalen Ähnlichkeiten.

<sup>98</sup> G. Dilcher, *Bischof und Stadtverfassung in Oberitalien*, in «Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Germanistische Abteilung», 81 (1964), S. 223-266.

<sup>99</sup> Vgl. dazu oben Anm. 6, dort vor allem der mit D. Willoweit herausgegebene Band *L'organizzazione del territorio in Italia e Germania*.

## ***Il riflesso della grande storia nelle piccole vite: le suppliche alla Penitenzieria\****

di Arnold Esch

Le suppliche raccolte nei registri della Penitenzieria Apostolica riguardano le assoluzioni da censure e dispense, che non potevano essere concesse dai vescovi diocesani, territorialmente competenti, perché di prerogativa del pontefice. Chi aveva contravvenuto, in qualche forma, alle disposizioni del diritto canonico e ne aveva subito o aveva ragione di temerne le sanzioni poteva soltanto appellarsi a Roma. Spesso si trattava di un religioso che si era reso colpevole oppure corresponsabile della morte o del ferimento di qualcuno e si trovava quindi nella condizione di *irregularitas*, ossia in uno stato di difetto che lo rendeva *inhabilis* a esercitare un ufficio ecclesiastico, oppure, se ancora non era stato consacrato prete, a ricevere gli ordini minori o maggiori<sup>1</sup>.

Per presentare in modo circostanziato al tribunale della Penitenzieria il tipo e il grado di trasgressione imputata, le suppliche (predisposte nella forma corretta dai procuratori) riferivano, nella *narratio*, con dovizia di particolari, le circostanze che avevano determinato il caso: sono spesso racconti molto personali, talvolta perfino toccanti, che non vanno tuttavia presi del tutto alla lettera, perché naturalmente orientati a sminuire la colpa commessa. Nondimeno, le suppliche consentono a tanti uomini di modesta condizione, per lo più completamente ignorati dalle fonti storiche, di narrare alcuni episodi della propria vita<sup>2</sup>. Non vi appaiono quindi come semplici comparse, ma come attori che prendono la parola. Ed è proprio su questi racconti personali, e non sugli aspetti canonistici e sulle competenze del tribunale della Penitenzieria<sup>3</sup>, che intendo soffermarmi.

\*Per la traduzione ringrazio M.P. Arena e R. Delle Donne.

<sup>1</sup> Sulla funzione e sulle competenze della Penitenzieria, si veda in particolare L. Schmugge, P. Hersperger e B. Wiggemhauser, *Die Supplikenregister der päpstlichen Kurie aus der Zeit Pius' II. (1458-1464)*, Tübingen 1996 (Bibliothek des Deutschen Historischen Instituts in Rom, 84).

<sup>2</sup> Raccolte di suppliche scelte: F. Tamburini, *Santi e peccatori. Confessioni e suppliche dai registri della Penitenzieria dell'Archivio Segreto Vaticano (1451-1586)*, Milano 1995; K. Salonen e L. Schmugge, *A Sip from the «Well of Grace»*. *Medieval Texts from the Apostolic Penitentiary 1414-1526*, Washington 2009; A. Esch, *Wahre Geschichten aus dem Mittelalter. Kleine Schicksale selbst erzählt in Schreiben an den Papst*, München 2010.

<sup>3</sup> Ludwig Schmugge ha esposto questa tematica anche sotto l'aspetto del diritto canonico in numerose pubblicazioni; si vedano per esempio le note 1, 2, 46.

L'accesso all'archivio della Penitenzieria Apostolica è stato rigorosamente precluso agli studiosi per lungo tempo, certamente fino a quando è prevalsa la convinzione che il materiale ivi raccolto contenesse deposizioni *pro foro interno*, relative quindi al rapporto tra penitente e confessore, che non potevano essere rese pubbliche, a salvaguardia del segreto confessionale. Dopo che nel 1983 l'archivio è stato reso accessibile agli studiosi, l'Istituto Storico Germanico di Roma, che già da tempo raccoglieva nel *Repertorium Germanicum* tutti i materiali relativi alla Germania presenti nei diversi fondi dell'Archivio Vaticano, ha deciso, nel 1991, di avviare la pubblicazione in forma di registi anche dei registri delle suppliche della Penitenzieria, in una serie specifica, il *Repertorium Poenitentiarie Germanicum*. Grazie al dinamismo di Ludwig Schmugge, l'impresa ha compiuto rapidi progressi, portando alla pubblicazione, in poco meno di un ventennio, dei materiali relativi a ben 8 pontificati<sup>4</sup>. Contemporaneamente, altri studiosi si sono occupati dei riferimenti, presenti nei registri, a diversi aspetti e differenti regioni d'Europa<sup>5</sup>. Finora, soltanto per le aree comprese nei territori dell'Impero, sono quindi state rese disponibili circa 33.000 suppliche, registrate negli anni compresi tra il pontificato di Eugenio IV e quello di Alessandro VI, quindi tra il 1431 e il 1503. Attingendo a questa ampia messe di materiali, mi occuperò in questa sede esclusivamente dell'analisi delle rubriche *De diversis formis* e *De declaratoriis*, che, diversamente da altre materie più facilmente classificabili, come gli "impedimenti matrimoniali" oppure gli "impedimenti all'ordinazione per nascita illegittima", non erano agevolmente riconducibili al comune denominatore di un formulario standardizzato; proprio perché contenevano le richieste più disparate, necessitavano infatti di una descrizione degli eventi particolarmente circostanziata, in altri termini, di una *narratio*<sup>6</sup>.

È chiaro che gli episodi raccontati, dal momento che non aprono scorci su azioni di stato e su decisioni politiche, ma illuminano con un fascio di luce accidentale alcune vite comuni, sono per lo più privi di una cornice storica: omicidi e ferimenti, liti in convento, inosservanza del celibato, infrazioni ai precetti quaresimali, rottura di giuramenti: episodi che avvengono nella cor-

<sup>4</sup> *Repertorium Poenitentiarie Germanicum* (d'ora in poi: RPG). *Verzeichnis der in den Supplikenregistern der Pönitentiarie vorkommenden Personen, Kirchen und Orte des Deutschen Reiches*, a cura di L. Schmugge e collaboratori: vol. I, *Eugen IV (1431-1447)*, Tübingen 1998; vol. II, *Nikolaus V. (1447-1455)*, 1999; vol. III, *Calixt III. (1455-1458)*, 2001; vol. IV, *Pius II. (1458-1464)*, 1996; vol. V, *Paul II. (1464-1471)*, 2002; vol. VI, *Sixtus IV. (1471-1484)*, 2005; vol. VII, *Innozenz VIII. (1484-1492)*, 2008; vol. VIII, *Alexander VI. (1492-1503)*, in corso di stampa.

<sup>5</sup> *Le suppliche alla Sacra Penitenzieria Apostolica provenienti dalla diocesi di Como (1438-1484)*, a cura di P. Ostinelli, Milano 2003; S. Risberg e K. Salonen, *Auctoritate Papae. The Church Province of Uppsala and the Apostolic Penitentiary 1414-1526*, Stockholm 2008 (Acta Pontificum Suecica II).

<sup>6</sup> È ovvio, e si deve tenerne conto, che anche queste *narrationes* hanno una loro prospettiva relativa al diritto canonico, e che dettagli all'apparenza irrilevanti possono essere invece rilevanti sotto l'aspetto del diritto canonico. Le suppliche registrate sono state tutte risolte in senso positivo (anche se, in parte, con condizioni); non è dato sapere se alcune suppliche siano state anche respinte.

nice modesta della propria casa, del convento, del villaggio, della città, e che talvolta saremmo tentati di leggere come fossero storielle o novelle (d'altronde, anche una novella può parlare di persone storiche<sup>7</sup>), se non sapessimo che per queste persone non furono affatto divertenti storielle. Tuttavia, in alcuni casi, si intravede lo sfondo storico, e vengono menzionati alcuni grandi eventi, ed è su questi casi che fermerò la mia attenzione<sup>8</sup>.

Tali eventi storici saltano tanto più all'occhio in quanto vengono ricordati per ragioni diverse. Perlopiù, si legano episodicamente a vicende individuali e a singole richieste. Tuttavia, talvolta, i riferimenti agli eventi storici si legano tra loro, quasi a tracciare l'ordito di un orizzonte storico. Per esempio, è quanto accade nelle diocesi di Aquileia e di Salisburgo, nei tardi anni Settanta del Quattrocento e nei primi anni Ottanta. In seguito a un attacco dei Turchi, a un uomo era stata rapita la moglie, «uxor sua legitima per Turcos capta et ad infidelium partes ducta»; quindi lui, che era ormai senza sostegno per la vecchiaia e doveva provvedere a sé stesso, aveva sconsideratamente promesso a un commendatario dell'Ordine teutonico alcune donazioni che ora voleva revocare. A un altro, in un'analogo razzia dei turchi, era stata rapita la moglie, insieme ad altri abitanti del luogo; ora, riferiva di avere sentito da uno di loro, che era riuscito a tornare a casa, che sua moglie era stata «decapitata da un turco» («per quendam Turcum decapitatam esse»); voleva quindi avere la possibilità di risposarsi. Ancora, un canonico in Carinzia vorrebbe poter cambiare convento, perché il suo era già stato assalito più volte dai Turchi: «a perfidissimis Turcis pluries impugnatur adeo quod in illo se commode sustentare non potest»<sup>9</sup>. Anche se le richieste sono della natura più varia (revocare una promessa di donazione, contrarre un nuovo matrimonio, lasciare il convento), hanno tuttavia un comune denominatore storico: la circostanza – che determina l'istanza – è nei tre casi la stessa ed è rappresentata dall'orizzonte storico degli assalti dei Turchi, che ancora all'epoca dello stesso Maometto il Conquistatore si erano addentrati più volte nel Veneto e in Austria, colpendo il Friuli, la Carniola e la Carinzia<sup>10</sup>: dalle suppliche possiamo così desumere quanto tali circostanze abbiano condizionato la vita dei singoli. Un'altra istanza alla Penitenzieria riporta all'epoca della minaccia turca subito dopo la conquista di Costantinopoli: due carmelitani di Norimberga riferiscono di essersi recati in Ungheria a proprie spese, per partecipare alla crociata contro i turchi – ma quando giunsero alla meta, «non trovarono nessuno che li guidasse nella guerra contro gli infedeli» («neminem qui eos ad impugnationem infidelium conduceret invenientes, eorum substantia consumpta ad Romanam curiam reversi sunt»)<sup>11</sup>. L'esercito che

<sup>7</sup> A. Esch, *Weitere historische Personen in Franco Sacchettis 'Trecentonovelle'*, in «Zeitschrift für romanische Philologie», 90 (1974), pp. 247-252.

<sup>8</sup> Si veda Esch, *Wahre Geschichten* cit., pp. 174-187.

<sup>9</sup> RPG VI 3423 (1484), 3765 (1482), 3594 (1476).

<sup>10</sup> F. Babinger, *Mehmed der Eroberer und seine Zeit*, München 1953, pp. 391 sgg., 402 sgg., con carta a p. 350.

<sup>11</sup> RPG III 296 (1456, genn.). Battaglia di Belgrado: P.E. Kovács, *Il trionfo di Belgrado e l'Italia*,

nel luglio 1456, al comando del reggente János Hunyadi, avrebbe battuto i turchi presso Belgrado, non si era ancora formato; quindi, alla fine, dopo aver esaurito i loro mezzi, i due tornarono indietro: tuttavia, poiché avevano fatto un voto, dovevano chiedere a Roma di esserne sciolti e così ora, per giustificarsi, narravano la loro storia.

Un altro orizzonte storico si delinea quando vengono esaminati unitariamente i casi in cui – sempre in seguito alle più disparate istanze dei richiedenti! – viene menzionato Carlo il Temerario di Borgogna. Infatti la sua politica espansionistica preoccupò la vicina Francia, l'Impero, la Confederazione elvetica e, a causa del susseguirsi di azioni militari durante il suo dominio (1467-1477), ebbe ripercussioni profonde nella vita di quei territori: l'ombra lunga di Carlo il Temerario aveva perciò finito col proiettarsi anche sui destini delle persone comuni. Le guerre di Carlo e le loro conseguenze vengono così rivissute nella prospettiva degli uomini semplici, e non, come è consueto, a causa delle fonti disponibili, nella prospettiva delle corti coinvolte e delle città colpite. Nelle suppliche vediamo quindi affiorare le tracce di piccole vite.

Per esempio, veniamo a sapere che la città di Strasburgo, che contrastava le mire espansionistiche di Carlo alleandosi con i confederati svizzeri, si era premunita per l'assedio distruggendo il convento delle suore domenicane di Sant'Agnese fuori le mura, affinché il nemico non si potesse barricare al suo interno («timentes...monasterium predictum pro sua defensione contra eundem ducem valde fore nocivum»). Ma che fare delle suore? La città aveva stabilito di alloggiarne alcune presso le domenicane di Santa Margherita, che tuttavia non erano riformate: perciò le suore osservanti non volevano andarci, mentre le altre non volevano accoglierle. Quindi la città deliberò di spostarle forzosamente (*violenter*) nella nuova sede. Tuttavia, alcune suore si erano già trasferite in conventi di loro scelta, mentre altre erano tornate alla vita secolare. Come potevano quindi regolarizzare la loro decisione, se non rivolgendosi a Roma?<sup>12</sup>

Ancora un caso: un ragazzo quattordicenne raggiunge i campi di battaglia di Carlo il Temerario («dove allora si recavano vecchi e giovani», dichiara l'istanza) – finché la madre malata non gli rivela di averlo consacrato alla vita monastica. Quindi entra in un convento francescano a Zurigo. Ma la gente dirà: come può consacrare la propria vita a Dio, se prima lo abbiamo visto sul campo di battaglia?<sup>13</sup>

Con la morte in battaglia di Carlo il Temerario, nel 1477, e il crollo del dominio borgognone, altri casi si intravedono dal piccolo squarcio delle richieste alla Penitenzieria. Rivolte contro il patriziato e i potenti consiglieri del duca divamparono in numerose città. A Bruxelles, che sotto il padre di

in *Scritti per Isa. Raccolta di studi offerti a Isa Lori Sanfilippo*, a cura di A. Mazzon, Roma 2008 (Nuovi Studi Storici, 76), pp. 535-547.

<sup>12</sup> RPG VI 2726, 2729, 2897, 2981 (1477-79); si veda Ph. Dollinger e F. Rapp in *Histoire de Strasbourg*, vol. II, Strasbourg 1981, pp. 130 e 187.

<sup>13</sup> RPG VI 3718 (1481); altri casi in Esch, *Wahre Geschichten* cit., pp. 175 sg.



Carlo era diventata per un certo periodo luogo di soggiorno prediletto della corte, «dopo la morte del duca Carlo» (come segnalano espressamente), due cavalieri delle diocesi di Cambrai e di Utrecht erano stati catturati e incarcerati e al momento della loro liberazione avevano dovuto promettere, sotto giuramento – come era consuetudine –, di rinunciare alla vendetta; ora desideravano essere sciolti dal giuramento loro estorto<sup>14</sup>.

In un'altra istanza si riferisce parola per parola una conversazione a tavola in cui, «in quadam cena ubi materia guerrarum Leodiensium narrabatur», due uomini si erano reciprocamente dati addosso, esprimendo opinioni contrastanti sulle più recenti guerre di Liegi: per così dire, ritroviamo la registrazione di una discussione politica, poi degenerata in uno scambio mortale di coltellate («eum esse bastardum et filium meretricis»)<sup>15</sup>.

Sappiamo inoltre che alle truppe di Carlo il Temerario si era unito una volta un uomo di Rotterdam e che questi, nel corso di una spedizione, era entrato in una chiesa, in un luogo sconosciuto. Dopo averne ispezionato le reliquie, egli «aveva rubato un piccolo recipiente, su cui si poteva leggere che conteneva una delle costole di San Cornelio..., e l'aveva portato alla chiesa [di San Cornelio] a Rotterdam». La città di Rotterdam chiedeva perciò al pontefice di poter continuare a venerare la reliquia nella chiesa parrocchiale, finché non fosse stato stabilito a quale chiesa andasse restituita<sup>16</sup>.

Attraverso le suppliche, anche altre guerre entrano nel nostro campo visivo, sempre nella prospettiva di persone modeste, coinvolte negli eventi, che ricordano la grande cornice storica solo per definire meglio la loro piccola colpa: ad esempio, il cosiddetto *Markgrafenkrieg* del 1449-1450, fra Alberto Achille margravio di Brandeburgo e la città imperiale di Norimberga, riaffiora dal punto di vista di un uomo che aveva accompagnato in battaglia il suo signore, un patrizio di Norimberga. Oppure la cosiddetta *Mainzer Stiftsfehde*, del 1459-1463, per il possesso dell'importante sede arcivescovile di Magonza, viene raccontata dalla prospettiva modesta di un uomo che cita per nome tutti i principi coinvolti: egli ricorda i due contendenti Diether von Isenburg e Adolf von Nassau, ma anche il duca di Baviera, il margravio del Baden, il conte palatino del Reno, il conte di Württemberg, solo per riferire come lui, obbedendo agli ordini, abbia dovuto prendere parte a una battaglia per conquistare un piccolo cimitero («quoddam cimiterium parochialis ecclesie Wuszheim Spirensis diocesis»). Anni più tardi, avendo nel frattempo ricevuto gli ordini minori, desiderava ottenere da Roma la dichiarazione che i fatti riferiti non costituivano un impedimento agli altri ordini<sup>17</sup>.

Fanno la loro comparsa anche i conflitti internazionali e le grandi campagne militari con gli eserciti di ventura, quando a qualche piccolo mercenario rimorde la coscienza oppure è preso dal timore che i suoi trascorsi possa-

<sup>14</sup> RPG VI 2929, cfr. 2944 (1479). Per le rivolte: Philippe de Commynes, *Mémoires*, V 10 sgg.

<sup>15</sup> RPG VI 3804 (1484).

<sup>16</sup> RPG VII 1714 (1486).

<sup>17</sup> *Markgrafenkrieg* RPG II 1001 (1453); *Stiftsfehde* V 1998 (1466).

no procurargli uno svantaggio. Per esempio, la nota campagna di Carlo VIII di Francia contro Napoli nel 1494: un certo Ambrosius Gugelberg della diocesi di Costanza, quindi un mercenario svizzero o tedesco, riconosce, nella sua richiesta di assoluzione, di avervi partecipato («armatus interfuit»)<sup>18</sup>. Tuttavia, come era previsto in questi casi, non poteva provvedere alla restituzione del bottino a coloro che erano stati depredati (e come poteva essere possibile?), per cui la chiesa si accontentava di una donazione *in pios usus*, una soluzione che rappresentava una redistribuzione dei beni sottratti al Sud in favore di una regione del Nord.

Oppure Luigi XI di Francia (1461-1483) e il suo reclutamento di mercenari svizzeri. Un uomo di Coira, Christianus della Porta, riferisce di essersi unito a Luigi XI con un contingente di non meno di 10.000 mercenari svizzeri («numerum 10.000 vel circa constituentes, quos bone memorie Ludovicus rex Francorum... stipendiarios conduxerat»)<sup>19</sup>. Un altro abitante dei Grigioni, seguendo un percorso meno lineare, era finito in una truppa di mercenari svizzeri in Francia. Racconta di aver studiato in Francia, ma di aver dovuto interrompere gli studi a causa della povertà («studia huiusmodi paupertate oppressus amplius continuare non valeret»). Quindi si era unito a mercenari, suoi parenti, che si trovavano in Francia, ed era arrivato a diventare scrivano di un capitano, partecipando alle battaglie fra il re tedesco e quello francese («et in predicto regno scriba cuiusdam capitanei existens motis guerris inter serenissimum principem dominum Maximilianum Romanorum et Francie reges illustrissimos», si intende la guerra di Massimiliano I per l'eredità di Carlo il Temerario di Borgogna), ma senza fare mai del male a nessuno, come viene esposto diffusamente con l'esempio dell'espugnazione di un «parvum fortalitium»<sup>20</sup>. Entrambi gli abitanti dei Grigioni, appena ricordati, da mercenari erano diventati chierici; quindi entrambi, per prudenza, minimizzavano per quanto era possibile il loro carattere guerriero, offrendo un singolare autoritratto del mercenario elvetico, che agli occhi degli italiani del tempo appariva invece particolarmente aggressivo<sup>21</sup>.

In occasione di azioni militari viene menzionato l'uso di cannoni, e perfino di armi da fuoco portatili: si trattava di una nuova invenzione (Pio II nei suoi *Commentarii* IV 24 descrive diffusamente quest'arma recente) e nel maneggiarla qualcosa poteva andare storto, soprattutto se impugnata da religiosi inesperti<sup>22</sup>. Mancava ancora la domestichezza con il suo uso, come si può notare da diverse *narrationes* («Il ragazzo, nella sua ingenuità, non credeva

<sup>18</sup> RPG VIII 2619 (1497).

<sup>19</sup> RPG VII 2574 (1489).

<sup>20</sup> RPG VIII 2256 (1493).

<sup>21</sup> Giudizi italiani sui mercenari svizzeri in A. Esch, *Mercenari svizzeri in marcia verso l'Italia. L'esperienza delle guerre di Milano (1510-1515) secondo fonti bernesi*, in A. Esch, *Mercenari, mercanti e pellegrini. Viaggi transalpini nella prima Età moderna*, Bellinzona 2005, in particolare pp. 69-73.

<sup>22</sup> Esempi in Esch, *Wahre Geschichten* cit., pp. 120-124.

di far niente di male e fece fuoco con la *bombarda manualis sive scopeta* dell'uomo, che sparò una piccola pietra della grandezza di una nocciola, *lapillum in quantitate unius nucis avellane*, sui nemici a grande distanza»<sup>23</sup>.

Come nel caso delle suppliche provenienti dai territori dell'Impero (che sono al centro di questo contributo)<sup>24</sup>, così anche nelle suppliche provenienti da altre regioni d'Europa si allude naturalmente agli eventi politici, se nell'introduzione si tratta di raccontare in maniera concisa il motivo che ha determinato la propria eventuale colpa.

Per esempio, le vicende di alcuni richiedenti spagnoli sono inquadrare con grande precisione nella storia coeva. La supplica di un chierico della diocesi di Avila, del 1461, fa riferimento alla guerra navale tra Genova e Alfonso d'Aragona re di Napoli, quindi alla guerra navale al tempo della battaglia di Ponza del 1435 oppure alla guerra navale del 1458; costui, «per quamdam galeam Januensem captus» sulla rotta per Roma e costretto per 5 mesi a prestare servizio come rematore, ha partecipato alle battaglie di questa galea, anche se soltanto «in remando contra eius voluntatem», e quindi, per precauzione, vuole farsi attestare da Roma che questo servizio da rematore (e in seguito la sua partecipazione forzata alla demolizione di un *castrum* nemico) non pregiudica la sua *habilitas* al sacerdozio<sup>25</sup>.

Ancora un altro caso: «In obsidione per dominum Ferdinandum Castelle et Leonis regem illustrissimum contra castrum seu fortalitium eiusdem civitatis Burgensis», quindi all'assedio di un fortilizio presso Burgos, al principio del regno di Ferdinando il Cattolico, aveva preso parte un monaco della diocesi di Osma, all'epoca ancora *scolaris*, e che teme in seguito di essere messo sotto accusa<sup>26</sup>. Talvolta è delineato con precisione anche lo scenario di guerra: «Cum olim vigerent guerre prout de presenti vigent inter Enricum regem Castelle et Alfonsum eius fratrem», quindi nel corso delle battaglie fra Enrico IV di Castiglia e il suo fratellastro Alfonso (XII), che «ancora oggi perdurano» («prout de presenti vigent», infatti la destituzione di Enrico nella cosiddetta *farsa de Ávila* risaliva solo a un anno prima), i soldati – racconta, nel 1466, un francescano della diocesi di Palencia<sup>27</sup> – irrompono nel villaggio e portano via il bestiame.

Spesso, però, gli eventi riportati sono già trascorsi da lungo tempo (*olim, alias, tempore iuventutis* e simili), oppure sono accennati in modo piuttosto vago: «propter guerram inter Scotos et Anglicos» uno studente non aveva

<sup>23</sup> RPG V 2068 (1468). Lo stesso paragone con le dimensioni di una nocciola si trova anche nella descrizione di Pio II: «in cuius ore plumbea ponitur pilula ad magnitudinem nucis avellane».

<sup>24</sup> Cito le suppliche dei territori imperiali sulla base del RPG, le altre dai registri originali.

<sup>25</sup> Archivio Segreto Vaticano, Penitenzieria Apostolica, registra matrimonialium et diversorum (d'ora in poi: ASV, Penitenzieria Ap., reg.), 9 f. 256v-257r (1461); lungo il viaggio in direzione di Roma catturata anche la nave di un altro sacerdote spagnolo da una nave genovese: *ibidem*, f. 263r e v.

<sup>26</sup> ASV, Penitenzieria Ap., reg. 28 f. 251r (1479).

<sup>27</sup> ASV, Penitenzieria Ap., reg. 14 f. 127v (1466); J.N. Hillgarth, *The Spanish Kingdoms 1250-1516*, vol. II, Oxford 1978, pp. 333 sgg.

potuto tornare all'università di Colonia; «vigentibus guerris in regno Francie» alcuni avevano subito acquartieramenti militari ed erano stati costretti a difendersi; «vigente guerra vel controversia in regno Neapolitano Sicilieque et maxime in Calabria» altri avevano dovuto proteggere con la forza il loro bestiame; «vigentibus guerris in partibus Cathalonie» il villaggio era stato conquistato. Oppure nel corso delle guerre dinastiche per la successione al trono d'Inghilterra (*Wars of the Roses*), un chierico, in quanto «familiaris quondam Henrici tunc pro rege Anglorum se gerentis», aveva dovuto partecipare ai combattimenti contro re Edoardo [IV] d'Inghilterra<sup>28</sup>.

Si riferisce invece a un evento molto preciso delle contese politiche interne alla città di Bologna e ai suoi dintorni una supplica che presenta un caso piuttosto insolito di colpa e di scomunica. Un laico di Bologna (nel frattempo residente a Parma) aveva dato il proprio voto, nel consiglio cittadino bolognese, a favore di una decisione che aveva suscitato l'ira del papa, il quale, in seguito, aveva colpito con una scomunica collettiva tutti i votanti. Bologna aveva infatti deliberato, con votazione del Consiglio, la completa demolizione di San Giovanni in Persiceto (spesso occupata da nemici e fuorusciti ed esuli) – o con le parole della supplica, che risale a sei anni dopo l'evento: «Cum Galiotus de Mezevillanis de Bononia nunc habitator Parme de consilio ipsius civitatis esset ut est moris, et in dicto consilio transigeretur an castrum Sancti Johannis civitatis Bononie dirui et solo equari deberet vel non, ipse vocem suam dedit et consensit ut solo equaretur ut factum fuit. Postmodum vero felicitis recordationis Eugenius predecessor vester ipsius castri demolitione[m] molestam habens omnes qui huiusmodi demolicioni consensissent et vocem suam dedissent, excommunicari fecit»<sup>29</sup>.

Torniamo alla grande politica con alcune richieste del primo Cinquecento. Dalla prospettiva modesta di alcuni piccoli chierici seguiamo le vicende della cattura di Francesco I, nella battaglia di Pavia, nel 1525, e del Sacco di Roma del 1527! Un prete francese della diocesi di Agen, sulla Garonna, racconta nella *narratio* della supplica, anni dopo, tutta la storia della sua giovinezza da mercenario: «Ha partecipato a diverse guerre; fra l'altro, all'età di 17 anni, come mercenario al servizio del re cristianissimo nella conquista di Fuentarrabia... Quando il re si mosse verso l'Italia per l'assedio di Pavia, il richiedente seguì l'esercito con alcuni commilitoni e venne inserito nella compagnia di un capitano chiamato Giuliano; vi rimase fino alla cattura del re e, nella stessa battaglia, anche lui fu preso prigioniero dai nemici. Nel mezzo della battaglia promise a Dio di farsi prete, se fosse riuscito a uscirne sano e salvo»<sup>30</sup>.

<sup>28</sup> ASV, Penitenzieria Ap., reg. 3 f. 28v (1449); 14 f. 117r (1466); 14 f. 132v (1466); 23 f. 179r (1475).

<sup>29</sup> ASV, Penitenzieria Ap., reg. 3 f. 18v (1449); di nuovo f. 33v. A proposito della votazione nel consiglio bolognese, il 9 ottobre 1443, sulla distruzione del luogo *Corpus chronicorum Bononiensium*, a cura di A. Sorbelli (Muratori, nova editio XVIII 1, Bologna 1924) pp. 119 sg.

<sup>30</sup> «Exponitur pro parte Gratiani de Rothon presbiteri Agenen. dioc., quod alias ipse diversis bellis interfuit et inter alia ut stipendiarius in decimo septimo vel circa sue etatis anno constitutus

Ritroviamo infine un evento storico di portata particolare: il Sacco di Roma, il terribile saccheggio compiuto dalle truppe imperiali, tedesche e spagnole, nel 1527. Per un evento di tale portata, compiuto in un luogo simile, si poteva addirittura contare sulle suppliche dell'una e dell'altra parte, di coloro che se ne erano resi colpevoli e delle loro vittime.

Prima una vittima. Un certo Gaspare «de Garsonibus de Esio», *civis romanus*<sup>31</sup>, riferisce che «tempore calamitose dereptionis Urbis in manibus quorundam militum detineretur mortem sibi emittere dubitans de solvendo summam et quantitatem duorum milium ducatorum certe persone absenti infra certum tempus tunc expressum per vim et metum qui cadere poterat in constantem virum» (secondo la decretale di Innocenzo III: X 1.40.4), e che lui aveva corroborato con la forza di un giuramento la promessa di riscatto, impegnando i suoi beni («obligavit iurans promissionem huiusmodi observare»). Ora, dopo quattro anni e mezzo, desiderava essere sciolto dal giuramento<sup>32</sup>.

Fra i colpevoli, ritroviamo invece un tedesco della diocesi di Costanza, Andreas Dul de Hattimhoff, figlio di un prete, che ha già ricevuto gli ordini minori e ora desidera diventare sacerdote. Tuttavia aveva partecipato al Sacco di Roma: «sed quia horrende eversioni Urbis et diversis aliis bellis tam citra quam ultra montes etiam contra Romanam Ecclesiam et Sedem Apostolicam gestis ut stipendiarius Cesaree maiestatis interfuit»; per cui è ora costretto a chiedere l'assoluzione. Veniamo così a sapere che anche questo lanzicheneco, questo mercenario, come sempre avviene in suppliche di questa natura, assicura di non avere mai ucciso nessuno durante le campagne militari<sup>33</sup>.

in servitiis Christianissimi regis existens, expugnationi cuiusdam ville vulgariter nuncupate Funtarabia sub conductu et ordine cuiusdam capitanei nuncupati Drugat interfuit sub quo per spatium novem mensium commoratus est, infra quod tempus tam in dicta villa quam extra eam plura homicidia ac mutilationes tam in presentia dicti oratoris [cioè Gratiani] quam in eius absentia perpetrata fuerunt, minime tamen propriis manibus occidit vel vulneravit seu mutilavit. Item alio tempore dum prefatus Christianissimus rex in Italiam ad obsidionem Papie se transtulit, dictus orator [cum] nonnullis sociis et commilitonibus exercitum sequutus [est], ubi in societate cuiusdam capitanei, dominus Julianus nuncupatus, receptus fuit inibique usque ad captionem ipsius regis permansit, in quo quidem conflictu predictus orator ab hostibus similiter captus et deprehensus fuit; dumque in acie dimicaretur orator ipse si ab inimicis salvus evaderet homo ecclesiasticus et presbiter efficeretur missamque celebraret Deo vovit». Poi segue un resoconto circostanziato del modo in cui in patria ha partecipato ad una sanguinosa lotta di briganti: ASV, Penitenzieria Ap., reg. 78 f. 154v-156r (1531), si veda Tamburini, *Santi* cit., n. 66; Fuentarrabia fu conquistata nel 1521 o 1523 (R.J. Knecht, *Francis I.*, Cambridge 1982, pp. 110 e 155); ma è impossibile che nel caso del *capitaneus Drugat*, fuori del Mediterraneo, si tratti effettivamente del corsaro turco Dragut, e nel caso del *capitaneus Iulianus* di un capitano dell'esercito imperiale (quindi avversario di Francesco I!), come ritiene Tamburini, *Santi* cit., p. 267.

<sup>31</sup> Probabilmente lo stesso Gaspare «de Esio» che figura nel censimento romano poco prima del Sacco: *Habitatores in Urbe. The Population of Renaissance Rome*, a cura di E. Lee, Roma 2006, nr. 979, rione Colonna.

<sup>32</sup> ASV, Penitenzieria Ap., reg. 77 f. 139r e v, 19 nov. 1531.

<sup>33</sup> Tamburini, *Santi* cit., n. 65, 19 nov. 1528 (il registro originale, 76, a causa del cattivo stato di conservazione momentaneamente non è accessibile).

Il Sacco viene menzionato incidentalmente anche in altre suppliche, ed è opportuno segnalarlo, perché la nostra conoscenza del Sacco è interamente dominata dal ricorso a fonti narrative e letterarie, mentre solo di recente sono stati sistematicamente presi in considerazione anche gli atti notarili<sup>34</sup>. Nelle suppliche della Penitenzieria le questioni legate al Sacco si estendono lungo l'arco di diversi anni. Per esempio, nel 1531, si parla di una casa nel rione Parione, «que ob direptionem Urbis discoperta et absque tecto remanserat»<sup>35</sup> (*direptio Urbis* è l'espressione più usata per definire il Sacco di Roma); ancora nel 1532, uno Stephanus de Paparonibus *acolitus romanus*, si lamenta del fatto che «in excidio et dereptione alme Urbis» è andata persa l'attestazione del suo conseguimento degli ordini minori<sup>36</sup>.

Fra i conflitti di carattere più locale, che hanno però avuto ampia risonanza, compare, negli atti della Penitenzieria, quello fra il cardinale Nicola Cusano in qualità di vescovo di Bressanone e Sigismondo duca d'Austria conte del Tirolo, e le relative sanzioni ecclesiastiche (la scomunica inflitta a Sigismondo, l'interdetto per i suoi territori)<sup>37</sup>. Un territorio colpito da interdetto non costituiva un problema solo per i sacerdoti del luogo, poteva (e doveva) rappresentare un grave impedimento anche per i laici che lo abitavano o lo attraversavano.

I territori di Sigismondo del Tirolo non potevano essere aggirati dalle persone che si recavano in Italia dalla Germania. «Per risparmiare sulle spese e sulle distanze» («parcendo expensas ac distantiam viarum»), dice un uomo di Memmingen (probabilmente un mercante), diretto nel Veneto, lui non aveva potuto rispettare il *generale interdictum* che gravava sulle terre di Sigismondo e in particolare sull'Alto Adige («et presertim per totum Athesim») e aveva percorso questo tratto senza fare molte soste. Per la stessa ragione era scomunicato uno studente che partendo dalla Germania per raggiungere Bologna, per motivi di studio, aveva attraversato i territori di Sigismondo e quindi, inevitabilmente, aveva intrattenuto rapporti con la gente del Tirolo: «cum ipsis interdictis bibit, comedit et alias participavit»<sup>38</sup>.

La scomunica di Sigismondo torna anche in un riflesso molto personale: un chierico tedesco a Roma stacca dal muro un manifesto sul quale è scritta la condanna del conte del Tirolo da parte di Pio II («quandam copiam... tum quodam muro impressam») e se lo porta via – non per arre-care ingiuria al pontefice, ma per studiare meglio il testo («causa informa-

<sup>34</sup> A. Esposito e M. Vaquero Piñeiro, *Rome During the Sack: Chronicles and Testimonies from an Occupied City*, in *The Pontificate of Clement VII*, a cura di K. Gouwens e S.E. Reiss, Aldershot 2005, pp. 125-142 (durante l'occupazione erano attivi a Roma circa 50 notai; fra i loro documenti molti riguardano pagamenti di riscatti).

<sup>35</sup> ASV, Penitenzieria Ap., reg. 77 f. 300r e v: Julianus de Cardellis «perpetuus capellanus capellanie S. Lucie [proprietaria della casa] in ecclesia S. Cecilie in Montelauro de monte Jordano de Urbe» e scrittore della Penitenzieria (12 ott. 1531). Forse è la stessa persona dello «Iulio Cardalo» citato nel censimento (come a nota 31), nr. 4620, rione Parione.

<sup>36</sup> ASV, Penitenzieria Ap., reg. 78 f. 247v-248r, 323v-324v.

<sup>37</sup> E. Meuthen, *Die letzten Jahre des Nikolaus von Kues*, Köln 1958, pp. 15 sgg.

<sup>38</sup> RPG V 1917 (mercante) e 1157 (studente); si veda anche III 354, V 1133 e 2002, VI 3635.

tionis»), si giustifica<sup>39</sup>. Che all'epoca, in una sorta di guerra dei manifesti, venissero invece affissi a Roma anche quelli di Sigismondo, che erano poi strappati via, è testimoniato da un dispaccio per Mantova.

Il caso del presunto omicidio rituale del fanciullo Simone (*Simonino*), la cui responsabilità venne imputata agli ebrei di Trento, compare fra le suppliche della Penitenzieria perché il podestà di Trento, Giovanni de Salis da Brescia, che *ex officio* e per ordine del vescovo aveva proceduto legalmente contro i presunti colpevoli, aveva continuato i suoi accertamenti anche in seguito, malgrado il divieto del commissario papale Battista de' Giudici, ed era così incorso nella scomunica, dalla quale chiedeva ora di essere assolto<sup>40</sup>.

Fra gli eventi bellici della Mitteleuropa del Quattrocento spiccano le guerre degli Hussiti, che sono costantemente citate nelle suppliche. Anche dopo i *compactata* (accordi) fra gli Hussiti moderati (*utraquisti*) e il concilio di Basilea (ma senza l'approvazione del papa) le tensioni fra lo schieramento hussita e quello cattolico perdurarono, e con la deposizione e la scomunica di Giorgio Podiebrad – capo degli *utraquisti* e dal 1458 re di Boemia – da parte del papa nel 1465 ebbe inizio un'altra devastante guerra degli Hussiti.<sup>41</sup> Da questo genere di fonti emerge in modo terribile come i contraccolpi di questo movimento religioso e politico abbiano continuato a ripercuotersi, drammaticamente, sui piccoli destini dei singoli, al di là della grande politica, delle ambascerie, dei *compactata*, con guerre e fughe, terrore e roghi, matrimoni forzati e distrutti.

E vengono menzionati i roghi sui quali morivano gli Hussiti. Un monaco di Melk racconta che a dieci anni, insieme a molti altri ragazzi, aveva portato la legna da ardere e aveva esortato altri a farlo. Lo stesso confessa un altro monaco di Melk, riportando fatti accaduti a Laa, sua città natale, dicendo a proposito degli Hussiti, «che allora assediavano quasi tutta la Germania», che tagliavano la lingua ai preti e li castravano<sup>42</sup>.

Molti casi relativi a matrimoni, fra cui quello che segue, dimostrano quanto possa essere investita anche la sfera privata. Un boemo racconta in modo molto personale, nella *narratio* della sua supplica, come «una volta a Praga era stato incarcerato dagli eretici per la sua giusta fede e condannato a morte, che i suoi compagni, durante la prigionia, erano stati uccisi, e che... gli eretici a quel tempo decapitarono quasi 600 cattolici. Allora arrivò una donna, un'eretica boema, a casa sua, dove lui si trovava prigioniero, insieme con altri due che furono decapitati, e gli disse: “Se non mi prendi in moglie,

<sup>39</sup> RPG VI 2903 (nel 1479, quindi 18 anni dopo i fatti!). Sui manifesti di Sigismondo si veda L. von Pastor, *Geschichte der Päpste*, II, Freiburg 1925, p. 150 n. 2.

<sup>40</sup> RPG VI 2953 (1479). Per i processi e le persone si veda A. Esposito e D. Quagliani, *Processi contro gli ebrei di Trento (1475-78)*, voll. I e II, Padova 1990 e 2008.

<sup>41</sup> Ne tratta estesamente F. Smahel, *Die hussitische Revolution*, I-III, Hannover 2002 (Monumenta Germaniae Historica, *Schriften* 48), fino ai *compactata* di Iglau del 1436; per il periodo successivo V. Filip e K. Borchardt, *Schlesien, Georg von Podiebrad und die römische Kurie*, Würzburg 2005.

<sup>42</sup> RPG II 880, 881 (1451).

anche tu verrai decapitato [*nisi ducas me in uxorem etiam decapitaberis*]. Ma se mi prendi in moglie e mi sposerai, ti libererò da questo pericolo mortale<sup>43</sup>. E così fece. Gli altri due furono presi e decapitati, e dopo che lui le promise di prenderla in moglie lei lo nascose, sicché non fu decapitato insieme ai suoi compagni<sup>43</sup>.

C'è un prete che, sotto costrizione o meno, ha dato la comunione sotto entrambe le specie e ora desidera ricevere l'assoluzione: già due volte è stato incarcerato per questo motivo, spiega uno; altrimenti gli avrebbero distrutto la sua chiesa, dichiara un altro<sup>44</sup>. Altri avevano preso parte attiva alle battaglie e raccontano quest'esperienza. L'atmosfera di diffidenza e di paura trapela non solo dagli episodi, appena raccontati, relativi alla Boemia, ma anche da quelli relativi alle regioni confinanti, alla Germania e all'Austria.

La supplica di un mercante ci trasporta in un mondo completamente diverso: il mondo di una piccola corte mediterranea, in cui l'ultimo re di Cipro della dinastia dei Lusignano, Giacomo II, prima che il suo regno passasse alla moglie Caterina Cornaro e poi, nel 1478, a Venezia<sup>45</sup>, cercava disperatamente e con rocamboleschi stratagemmi di trovare denaro. Lo sperimenta, a proprie spese, un mercante tedesco, Heinrich von Harff di Colonia, che da Venezia – dove allora erano attivi molti mercanti tedeschi e anche altri suoi concittadini – voleva espandersi nel Levante («qui ad partes orientales suas mercancias expedire cupiebat»). Quindi, per ottenere privilegi commerciali, cadde nella rete di una corte, dei cui raggiri e intrighi non era assolutamente all'altezza.

La storia che Heinrich von Harff racconta al papa, *Beatissime Pater*, nella *narratio* della supplica, e che si svolge a Venezia e a Cipro intorno al 1470, non è di quelle che ci si aspetterebbe di trovare fra i documenti della Penitenzieria: si legge come una novella di Boccaccio<sup>46</sup>. Il re, per ricompensarlo dei servizi che gli aveva reso a Venezia e per risparmiarle sulle spese, impose in moglie allo sbalordito mercante una dama di corte; organizzò quindi rapidamente il matrimonio, per lasciarlo subito dopo in balia dei cortigiani che piombarono sul mercante reclamando da lui il saldo dei presunti debiti della moglie: «E allora giullari, trombettieri e attori della corte reale recita-

<sup>43</sup> RPG IV 1758 Nycolaus von der Gehtutner *laicus*, diocesi di Praga, chiede l'annullamento di questo matrimonio forzato (1459). Si veda L. Dolezalova, "But if you marry me": *Reflections of the Hussite Movement in the Penitentiary*, in *The Long Arm of Papal Authority*, a cura di G. Jaritz e K. Torstein-Salonen, Budapest 2005, pp. 121-134.

<sup>44</sup> RPG II 1009 (1453), IV 1271 (1460).

<sup>45</sup> F. Colasanti, *Caterina Cornaro*, in *Dizionario biografico degli italiani*, 22, Roma 1979, pp. 335-342.

<sup>46</sup> RPG VI 3731 Henricus de Harff *mercator* della diocesi di Colonia, con richiesta di una *littera declaratoria*, in cui si attesti che non è sposato, e di conseguenza è libero di contrarre matrimonio (1481, quindi molti anni dopo i fatti: il re morì nel 1473). Trattato da L. Schmugge, *Die Abenteuer eines Kölner Kaufmanns auf Zypern (ca. 1472-1481)*, in *Wirtschaft-Gesellschaft-Mentalitäten im Mittelalter. Festschrift zum 75. Geburtstag von Rolf Sprandel*, Stuttgart 2006, pp. 729-738. Per mercanti, re e commerci a Cipro si veda Boccaccio, *Decamerone* I 9, II 4, II 7, III 7, X 9.



rono e suonarono, per festeggiare il matrimonio. [Heinrich] era in grave imbarazzo e voleva andarsene da lì. Quando alla fine si recò al suo alloggio, molti di questi intriganti e affaristi lo seguirono e gli dissero, uno dopo l'altro: "Tua moglie mi deve questo [*sponsa sive uxor tua mihi tenetur in tanta quantitate*], voglio il denaro, pagami subito, altrimenti ti creerò dei problemi [*alioquin inferiam tibi periculum*]". Riuscì a liberarsi di questa moglie indesiderata solo fuggendo senza indugio a Rodi – e ottenendo l'annullamento del matrimonio dal papa.

In questo contributo ho inteso presentare, attraverso le suppliche della Penitenzieria, divenute ora finalmente accessibili, quei casi in cui non si raccontano vicende avvenute in un tempo e in un luogo indeterminati (come quasi sempre avviene in questo genere di fonti, in cui la costante antropologica è dominante rispetto alla variabile storica), ma in cui si fa riferimento a eventi precisi e databili, perché fecondi di immediate conseguenze anche sulle vicende della vita dei singoli. Tale scelta consente di scoprire, in modo molto personale, il punto di intersezione tra grandi avvenimenti e piccole vite, il luogo in cui il tempo vissuto della vita di un uomo coincide con l'epoca pensata dallo storico<sup>47</sup>. Che conseguenze ha la politica aggressiva di Carlo il Temerario – non per la grande città di Strasburgo, ma per le suore locali? Le nostre fonti lo raccontano. Che conseguenze hanno le guerre degli Hussiti – non per la coesione della Chiesa, ma per la convivenza degli uomini in uno stesso luogo? In queste fonti risuonano i racconti delle vite individuali. Che conseguenze ha un interdetto papale sul Tirolo – non per la salvezza delle anime dei suoi abitanti, ma per il transito dei viaggiatori? Lo narrano le nostre fonti. Ed è proprio questa la storia osservata dalla modesta altezza degli uomini comuni, la storia vista dal basso.

<sup>47</sup> A. Esch, *Le prospettive della periodizzazione storica: epoca e generazione*, in «Comunità», 39 (1985), fasc. 187, pp. 1-38.



# ***État, État moderne, féodalisme d'état : quelques éclaircissements***

par Jean-Philippe Genet

1. Il y a une quinzaine d'années, Giorgio Chittolini, quoiqu'en soulignant l'intérêt de toute démarche visant à ouvrir les problématiques historiques sur de vastes horizons en leur donnant une dimension comparative, soulevait une difficulté bien réelle, celle des ambiguïtés, sinon de l'inadéquation, du mot « État » pour l'étude de la situation italienne et, d'une façon générale, pour celle de la période médiévale<sup>1</sup>. J'ai bien peur d'avoir contribué à aggraver ses réticences en proposant dès 1983 de s'interroger sur la genèse de l'« État moderne », le syntagme rendant encore plus improbable l'objet ainsi exposé aux méditations et aux interrogations des médiévistes. Il est vrai que ces programmes ne se limitaient pas à la période médiévale et avaient pour premier objectif de favoriser un travail comparatif. Quant à l'histoire italienne, l'accent mis sur le XIII<sup>e</sup> siècle comme point de départ du processus de genèse pouvait les faire apparaître comme plus inadaptés encore, puisque, à cette époque, l'on se trouve confronté en Italie à des structures politiques dont les origines et les traditions politiques ne rentrent que difficilement dans de tels cadres comparatifs : soit qu'elles remontent à l'Antiquité tardive (c'est le cas de la papauté) ou au Haut Moyen Âge (c'est le cas de l'Empire, du Patrimoine de Saint Pierre ou du *regnum Italiae*), soit que le XIII<sup>e</sup> siècle n'y apparaisse pas comme la flexion décisive qu'il est pour la plupart des monarchies européennes. C'est notamment le cas pour l'histoire des cités ou « cités-états », dont la vitalité et le dynamisme, pourtant éclatants, ne suffisent pas à dissiper toutes les réticences à les mettre sur le même plan que les monarchies, principalement en raison de leur taille<sup>2</sup>.

<sup>1</sup> G. Chittolini, *Il 'privato', il 'pubblico', lo Stato*, dans *Origini dello Stato. Processi di formazione statale in Italia fra medioevo ed età moderna*, éd. par G. Chittolini, A. Molho et P. Schiera, Bologna 1994, pp. 553-589.

<sup>2</sup> Ph. Jones, *The Italian city-state : from commune to signoria*, Oxford 1997, *passim*, considère que les cités italiennes sont pleinement des états, engagés dans un processus de *state building* ; c'est aussi ma position, même si cela n'implique pas forcément que l'on considère qu'elles présentent toutes les caractéristiques de ces états médiévaux qui possèdent les premières structures des futurs états modernes. Voir aussi A.K. Isaacs, *Italie. Les États de Toscane et de Vénétie du XIV<sup>e</sup> au XVI<sup>e</sup> siècle*, dans P. Blickle, dir., *Résistance, représentation et communautés*, Paris 1998, pp. 383-400.

Les réserves de Giorgio Chittolini portaient d'ailleurs moins sur le terme d'État lui-même, qu'il emploie fréquemment, proposant même le concept d'État régional<sup>3</sup> qui a jusqu'ici rencontré une très large adhésion chez les historiens, et s'intéressant également à ce qu'il appelle les « petits états seigneuriaux »<sup>4</sup>, qu'au problème de la distinction entre ce qui lui paraît ressortir du privé et du public, une distinction qu'il juge d'ailleurs inadaptée à la situation médiévale, soulignant au passage l'intérêt de la démarche de Paolo Prodi dans son ouvrage sur le serment, qui considère la société médiévale comme une société dans laquelle la gestion du pouvoir se fragmente en un *continuum* où la distinction entre public et privé finit par perdre tout sens<sup>5</sup>. Il précisait d'ailleurs qu'il n'utilisait pas « privé » par opposition à « public », mais simplement pour désigner des « formes d'organisation sociale et politique fondées sur des structures non publiques »<sup>6</sup>. Giorgio Chittolini parlait lui-même d'un « tissu de relations » pour rendre compte de cette *organicità* de la société médiévale, avec ces communautés de tous niveaux, communes, corporations, partis, factions, sociétés militaires, groupes porteurs d'intérêts divers, clientélares, sociaux, familiaux, ou autres, qui se manifestent sans cesse avec vigueur. Il insistait – avec raison, me semble-t-il – sur le fait que ces pouvoirs et les pouvoirs publics (c'est-à-dire celui du prince, de la cité, de leurs officiers et magistrats) se recoupent en de multiples intersections et réagissent les uns sur les autres<sup>7</sup>. Et il faisait valoir que l'imposition d'un modèle téléologique et « valorisant » de l'État pouvait s'avérer un frein pour une recherche qui devrait plutôt s'intéresser à la capillarité de l'exercice concret du pouvoir, en prenant éventuellement les choses depuis le bas vers le haut plutôt que l'inverse<sup>8</sup> : on reconnaît là la vieille distinction chère à Walter Ulmann, mais qu'une récente conférence à Ascona a reprise sur des bases nouvelles<sup>9</sup>. À dire vrai, je ne peux que souscrire à la plupart de ces remarques, d'autant que je ne pense pas avoir défendu pour ma part un modèle d'État *teleologico e valutativo*.

<sup>3</sup> Cf. notamment les articles réunis dans G. Chittolini, *La formazione della Stato regionale e le istituzioni del contado. Secoli XIV e XV*, Torino 1979 (Piccola Biblioteca Einaudi, 375), pp. 225-265.

<sup>4</sup> G. Chittolini, *Ascesa e declino di piccoli stati signorili (Italia centro-settentrionale, metà trecento-inizi cinquecento)*. Alcune note, dans « Società e storia », 31 (2008), 121, pp. 473-498.

<sup>5</sup> Chittolini, *Il 'privato'* cit., p. 584 ; la référence est à P. Prodi, *Il sacramento del potere. Il giuramento politico nella storia costituzionale dell'Occidente*, Bologne 1992.

<sup>6</sup> Chittolini, *Il 'privato'* cit., p. 582. Pour 'privato', cf. note suivante.

<sup>7</sup> « È un sistema di istituzioni, di poteri e di pratiche, insomma, che ha fra le sue principali caratteristiche una sorta di programmatica permeabilità da parte di forze e intenzioni diverse (o, se vogliamo, 'private'), pur in un'unità complessiva di organizzazione politica... », *ibidem*, p. 569, un point repris et développé par I. Lazzarini, *L'Italia degli stati territoriali*, Roma-Bari 2003, pp. 160-179.

<sup>8</sup> G. Chittolini, *Models of government 'from Below' in Fifteenth-Century Lombardy. The 'Capitoli di Dedizione' to Francesco Sforza, 1447-1450*, dans *Empowering Interactions. Political Cultures and the Emergence of the State in Europe 1300-1900*, Aldershot 2009, pp. 51-63; et M. Della Misericordia, « Como se tuta questa universitate parlasse ». *La rappresentanza politica della comunità*, à paraître dans *Avant le contrat social, le contrat politique dans l'Occident médiéval, XIII<sup>e</sup>-XV<sup>e</sup> siècles*, éd. par F. Foronda, Paris 2011 (Publications de la Sorbonne), pp. 117-169.

<sup>9</sup> Dans les actes de la conférence cités à la note précédente, voir notamment, par rapport à notre

2. J'aimerais donc profiter de l'opportunité qui m'est offerte par ce volume que lui présente ses collègues et ses amis pour clarifier un certain nombre de problèmes qui sont avant tout des problèmes de vocabulaire et auxquels son œuvre d'historien apporte toujours, par sa connaissance des sources et par la rigueur et la précision qu'elle manifeste dans leur interrogation, des contributions précieuses. Tout d'abord, il me faut revenir sur le syntagme « État moderne », bien que je m'en sois déjà expliqué et que j'ai proposé une « définition de travail » : « un État moderne, c'est un État dont la base matérielle repose sur une fiscalité publique acceptée par la société politique (et ce dans une dimension territoriale supérieure à celle de la cité), et dont tous les sujets sont concernés »<sup>10</sup>. Deux observations à ce propos : tout d'abord, tous les États médiévaux ne sont pas des antécédents des états modernes, ou pour parler plus précisément (cf. *infra*) ne présentent pas des caractéristiques structurelles qui sont restées celles de l'État contemporain. Le mot « état », du moins dans le sens que nous lui donnons, fait son entrée fracassante dans le vocabulaire de la réflexion politique avec la célèbre phrase d'ouverture du *Prince* de Machiavel, même si l'on trouve çà et là des usages du terme dans ce sens dès la seconde moitié du XV<sup>e</sup> siècle :

Tutti li stati, tutti e' dominii, che hanno avuto e hanno imperio sopra li uomini, sono stati e sono o republiche o principati. E' principati sono o ereditarii... o e' sono nuovi. E' nuovi, o sono nuovi tutti... o sono come membri aggiunti allo stato ereditario del principe che li acquista... Sono questi dominii così acquistati, o consueti a vivere sotto uno principe o usi a essere liberi<sup>11</sup>...

Le moins que l'on puisse dire est que la typologie machiavélienne est à la fois empirique et descriptive ... À moins de se condamner à de pénibles périphrases, il est raisonnable de désigner toute structure de pouvoir qui exerce des droits non contestés ou troublés par un pouvoir supérieur sur un territoire donné et dont l'autorité est reconnue par les populations qui y résident par le terme d'« État », et cela ne devrait donc troubler personne.

Deuxième observation : « moderne » doit être entendu dans son sens général, non dans le sens restreint que lui donnent les historiens dans les arrières-cuisines lexicales de leurs officines (c'est-à-dire appliqué à ce qui touche à la période dite « moderne », de la découverte de l'Amérique à la révolution Française en France, avec quelques variations mineures des dates extrêmes ailleurs en Europe). Le sens général, c'est donc celui d'État d'aujourd'hui, d'État contemporain. J'insiste d'ailleurs sur le fait que les programmes de recherche évoqués plus haut portaient sur la *genèse* de l'État

propos, les communications de A. Holenstein, *Introduction : Empowering Interactions : Looking at State building from Below*, pp. 1-31 ; W. Blockmans, *Citizens and their Rulers*, pp. 281-292 ; et W. Reinhard, *No Statebuilding from Below! A Critical Commentary*, pp. 299-304.

<sup>10</sup> J.-Ph. Genet, *La genèse de l'État moderne : les enjeux d'un programme de recherche*, dans « Actes de la Recherche en Sciences Sociales », 118 (1997), pp. 3-18.

<sup>11</sup> N. Machiavelli, *Il Principe*, éd. par M. Martelli et N. Marcelli, Rome 2006, pp. 63-65.

moderne, donc sur un processus de longue durée qui postule implicitement que les états médiévaux ne sont pas et ne peuvent donc être compris comme des États modernes, mais qu'ils en sont en quelque sorte les antécédents, dans la mesure où ils en présentent un certain nombre de caractères structurels. C'est d'ailleurs de cette façon que Max Weber parle lui aussi d'État moderne, dans le cadre d'une analyse de longue durée, même si son point de départ est plus proche de nous. Je reviendrai plus loin sur cet aspect : mais pour reprendre le débat avec Giorgio Chittolini, je préfère aborder d'abord le problème de la nature de cet « État moderne », avant d'évoquer ces rapports typologiques avec la cité-état italienne et enfin d'évoquer le problème de la société politique.

3. Le syntagme étant explicité, il est clair que si de nombreux types d'« états », au sens large, coexistent, seuls certains présentent des caractères qui se retrouvent de façon continue dans l'état contemporain. Pour le Moyen Âge, la typologie des structures de pouvoirs est extrêmement riche, tout autant que celle des différentes formes d'états<sup>12</sup>. Pour rechercher ceux qui présentent des caractéristiques que l'on observe dans les états d'aujourd'hui, il me semble qu'il y a deux écueils qu'il faut absolument éviter : d'une part, il ne faut pas partir des définitions théoriques dérivées d'un « Ideal Type » de l'état contemporain. La question d'Otto Brunner, « Existe-t-il un état de type moderne au Moyen Âge », telle du moins qu'il la pose, me paraît précisément la mauvaise question à poser, non seulement parce qu'elle conduit nécessairement (et d'ailleurs correctement) à une réponse négative, mais parce qu'elle induit une démarche rétrospective qui risque de conduire à plaquer une définition théorique de « l'état moderne » sur la réalité médiévale<sup>13</sup>. Ce danger est d'ailleurs bien mesuré par Brunner lui-même, mais la réponse, passablement embrouillée, qu'il donne – notamment le paragraphe réducteur consacré aux concepts de *respublica* chez Thomas d'Aquin et Suarez – n'est guère satisfaisante : à moins de renoncer à toute prétention de compréhension scientifique des sociétés du passé, on voit mal pourquoi il faudrait renoncer aux outils d'analyse forgés par les sciences sociales<sup>14</sup> – à condition,

<sup>12</sup> Blockmans, *Citizens and their Rulers* cit. ; cf. aussi Charles Tilly, *Coercion, Capital and European States 990-1990*, Oxford 1990; en français *Contrainte et capital dans la formation de l'Europe (990-1990)*, Paris 1992 et *Cities and the Rise of States in Europe, A.D. 1000 to 1800*, éd. par Ch. Tilly et W. Blockmans, Boulder 1994.

<sup>13</sup> O. Brunner, *Land und Herrschaft. Grundfragen der territorialen Verfassungsgeschichte Südostdeutschlands im Mittelalter*, Brunn 1943, pp. 126-134.

<sup>14</sup> *Ibidem*, pp. 127-128, et plus loin la critique des travaux de Dopsch et d'Ernst Winter. Sur la notion de communauté et de peuple chez Brunner, voir notamment les commentaires des deux traducteurs de l'ouvrage (à partir de la 4<sup>e</sup> édition, non à partir de celle de 1943), Howard Kaminsky et James Van Horn Melton, sur l'importance des concepts de *Land*, de *Volk* et de *völkisch* chez Brunner, qui sont précisément certains des points sur lesquels il rencontre l'idéologie nazie (ce qui ne revient évidemment pas à accuser Brunner d'être lui-même nazi, comme le montre d'ailleurs sa conception étroitement aristocratique du *Volk*), et sur le fait que pour la

bien entendu, de les utiliser correctement ! L'une de ces définitions de l'État qui a rencontré le plus de succès – du moins sur le continent<sup>15</sup> : il est d'ailleurs curieux de voir à quel point son influence paraît plus faible en Angleterre : peut-être les Anglais ont-ils été les seuls à lire ce que Schmitt a écrit sur la Grande Charte de 1215<sup>16</sup> – et sur laquelle s'appuie précisément Brunner est celle, fondée essentiellement sur des critères constitutionnels (souveraineté, unité [*Einheit*], absolutisme), de Carl Schmitt<sup>17</sup>.

Le second écueil est celui que l'on pourrait appeler celui de la justification de l'État par un processus d'intensification du pouvoir de l'État, que celle-ci soit d'ordre constitutionnel, administratif, juridique ou militaire, et de sa gouvernance. Le mot *Verdichtung* a été employé par Peter Moraw à propos des territoires de l'Empire<sup>18</sup> : d'une certaine façon, c'est aussi à ce paradigme que l'on pourrait ramener certaines des observations de Max Weber qui peuvent être analysées en termes quantitatifs autant que qualitatifs (par exemple, à partir de quel seuil – en nombre d'actes, de procédures ou de personnels peut-on parler d'une administration de type bureaucratique ?). Plus récemment, John Watts a conclu son analyse comparative des développements politiques en Europe à la fin du Moyen Âge en observant que partout l'on voyait s'opérer « a continuous process of governmental and political growth », un constat avec lequel on ne saurait être en désaccord<sup>19</sup>. Simplement, ce constat ne nous aide guère à caractériser ou à différencier les structures de ces états : dire qu'il y a plus de gouvernance dans la Pologne comme dans la France du XV<sup>e</sup> siècle (et par rapport à quoi ?), en dépit des crises et des bouleversements que connaissent ces deux royaumes, ne permet pas de dire en quoi leurs structures diffèrent. De plus, si l'on suivait cette voie, le problème épineux des seuils se pose-

*Landesgeschichte* dont il est l'avocat, il puise son inspiration – comme Schmitt ou le jeune Kantorowicz – dans le même fond que tous les ennemis de la démocratie et du libéralisme : H. Kaminsky et J. Van Horn Melton, *Translator's Introduction*, pp. xiii-lxi dans O. Brunner, *Land and Lordship. Structures of Governance in Medieval Austria*, Philadelphia 1992.

<sup>15</sup> Et en tous cas en Italie : cf. P. Schiera, *Legittimità, disciplina, istituzioni : tre presupposti per la nascita dello stato moderno*, dans *Origini dello Stato* cit., pp. 17-48, spécialement 17-26 qui souligne d'ailleurs bien la contradiction entre le moment « genetico e ideale » et celui de la « massima esplicazione istituzionale » (p. 27).

<sup>16</sup> Cf. aujourd'hui Sir J. Holt, *Magna Carta*, Cambridge 1992<sup>2</sup>.

<sup>17</sup> C. Schmitt, *Verfassungslehre*, Berlin [1928], pp. 45-46 sur la *Magna Carta*, p. 48 pour la citation suivante : « Sur le continent européen, en Espagne, en France et dans les états territoriaux germaniques, l'État moderne se développe quand le prince devient absolu ... Cet état moderne est souverain ; son autorité d'état est indivisible » ; l'une de ses principales caractéristiques est de mettre fin « à la légitimité du *statu quo*, sur laquelle reposait la condition féodale ». Il est vrai que cet ouvrage est écrit en liaison avec la Constitution de Weimar ; dans d'autres ouvrages, et notamment ses deux volumes d'essais sur la théologie politique, Schmitt est au contraire beaucoup plus sensible aux aspects historiques (voir S. Baume, *Carl Schmitt, penseur de l'État. Genèse d'une doctrine*, Paris 2008).

<sup>18</sup> P. Moraw, *Von offener Verfassung zu gestalter Verdichtung : Das Reich im späten Mittelalter 1250 bis 1490*, Berlin 1985 (Propyläen Geschichte Deutschlands, 3).

<sup>19</sup> J.L. Watts, *The Making of Politics. Europe, 1300-1500*, Cambridge 2009, cit. p. 420. Bien sûr, ce n'est ni la seule, ni la principale conclusion de cet ouvrage qui a le grand mérite de mettre précisément l'accent sur les structures du pouvoir, plus que sur les individualités ou les groupes sociaux de quelque nature qu'ils soient (et sans pour autant nier leur rôle).

rait : si l'on s'en tenait à ce seul critère (ce que ni Moraw ni Watts ne font) à partir de combien d'officiers, par exemple, peut-on commencer à parler d'administration ou de bureaucratie ?

Au lieu donc de se demander comme Otto Brunner s'il existe un État moderne au Moyen Âge, il faut se demander plutôt ce qui, dans les différents types d'états médiévaux, peut être considéré comme « moderne », en ce sens qu'il appartient toujours à la structure de l'état contemporain. C'est dans cette perspective que j'utilise, quant à moi, l'expression « État moderne ». Autrement dit, il faut partir de l'observation et de l'analyse empiriques des situations médiévales concrètes<sup>20</sup> (ce qui, *horresco referens*, inclut l'événementiel dans toutes ses dimensions, parfois les plus mesquines), et déceler par l'analyse historique les changements qui peuvent être interprétés comme décisifs, produisant les structures qui sont aujourd'hui jugées caractéristiques de l'État. La définition de travail citée plus haut souligne l'importance de plusieurs de ces structures : (1) l'existence d'une fiscalité publique, (2) celle d'une société politique, (3) celle du consentement à l'impôt de celle-ci, (4) le fait que tous les membres de la société soient concernés et (5) que le territoire impliqué soit plus vaste que celui d'une cité (un point sur lequel on reviendra). Je ne discuterai pas cette définition de travail, si ce n'est pour clarifier quelques points par rapport à la cité italienne.

4. Sur deux points au moins, celle-ci doit en effet être considérée comme pionnière dans l'Europe latine : la mise en place d'une fiscalité publique<sup>21</sup>, et l'existence précoce d'une société politique ; on peut suivre ces processus depuis la seconde moitié du XI<sup>e</sup> siècle dans certaines cités. En revanche, le fait même que les citoyens, ou du moins un grand nombre d'entre eux, participent directement à la vie de la cité a eu pour résultat paradoxal un relativement faible développement des institutions représentatives et une mise à l'écart des populations non citadines (d'où d'ailleurs aussi la relative faiblesse, notée par Ann Kathrine Isaacs<sup>22</sup>, des révoltes paysannes par rapport à d'autres pays). Surtout, le cadre unique de la cité fait que les processus de légitimation, qui interviennent dans des décisions cruciales pour la société poli-

<sup>20</sup> Cf. le plaidoyer de Giuseppe Galasso : « soltanto la ricostruzione storica diretta può pervenire a chiarificare e a sciogliere nella loro reale concretezza i vari momenti e le varie costruzioni dell'attività umana », in *Stato e storiografia nella cultura del secolo XX. Appunti su alcuni aspetti del problema storico*, dans *Visions sur le développement des États Européens. Théories et historiographies de l'État Moderne*, éd. par Wim Blockmans et J.-Ph. Genet, Rome 1993 (Collection de l'École Française de Rome, 171), pp. 95-115, cit. p. 114.

<sup>21</sup> Voir notamment P. Mainoni, *Finanza pubblica e fiscalità nell'Italia centro-settentrionale fra XIII e XV secolo*, dans « Studi storici », 40 (1999), 2, pp. 449-470 et P. Mainoni, *A proposito della 'rivoluzione fiscale' nell'Italia settentrionale del XII secolo*, dans « Studi storici », 44, (2003), 1, pp. 5-42 par rapport à G.L. Harriss, *King, Parliament, and Public Finance in Medieval England to 1369*, Oxford 1975 et à *L'impôt au Moyen Âge : l'impôt public et le prélèvement seigneurial, fin XII<sup>e</sup>-début XVI<sup>e</sup> siècle*, édité par Ph. Contamine, J. Kerhervé et A. Rigaudière, Paris 2002.

<sup>22</sup> *Supra*, note 2.



tique, qu'il s'agisse de consentir à l'impôt ou de reconnaître une guerre comme une guerre juste et nécessaire au salut d'État, n'ont pu se développer correctement, dans la mesure où les cités ne sont pas parvenues à intégrer dans la structure unitaire du type d'État qu'elles ont constitué – leur *Einheit*, pour emprunter son vocabulaire à Carl Schmitt – les populations de ces cités plus petites ou plus faibles qu'elles ont conquises ou dont elles ont pu faire leurs alliées. Venise est sans doute la seule qui y soit au moins partiellement arrivée, ne serait-ce que parce qu'elle a su habilement jouer des tensions sociales entre les élites des cités qu'elle domine et les populations de niveau social inférieur (un point également noté par Ann Kathrine Isaacs).

Or, l'importance de l'existence de communautés diverses dans la formation et la cohésion des royaumes d'Occident est un facteur important de développement, dans la mesure même où elle présentait un obstacle que les États ont dû se montrer capables de surmonter pour survivre. Ils l'ont d'ailleurs fait de diverses façons, et c'est là un élément complexe dont l'histoire est en plein renouvellement. Susan Reynolds a attiré à juste titre l'attention sur le problème que posait l'existence de plusieurs types de communautés dont certaines, « régionales », mériteraient très tôt d'être qualifiées de proto-nationales<sup>23</sup>. Ainsi, la formation de la communauté politique française, sans doute la plus cohérente de ces *nationes* d'origine composite, n'a pu s'accomplir que parce qu'elle a pu se faire sur la longue durée grâce à la relative faiblesse des rois de France<sup>24</sup>, et parce que cette évolution s'est brusquement cristallisée sous l'effet de la violence d'un ennemi commun à tous – à l'exception peut-être de la bourgeoisie bordelaise –, à savoir les Anglais<sup>25</sup>. En revanche, la puissance précoce des rois d'Angleterre, si elle a unifié – en partie contre lui d'ailleurs – la *communitas regni* anglaise, a fait des Anglais pour de longs siècles les ennemis des autres communautés britanniques qu'ils ont du coup dû lutter pour les soumettre par la force en les colonisant plus ou moins<sup>26</sup>. Dans les deux cas, un formidable effort de communication et de propagande, d'une part, mais aussi d'adaptation des administrations, des législations et des modes d'exercice du pouvoir a dû être entrepris. La Couronne d'Aragon avec ses entités séparées mais unies par la personne du souverain, la Castille avec les *fueros* de ses terres de conquêtes, les Pays-Bas Bourguignons à partir de Philippe le Bon sont autant d'exemples de ces différents types de processus de construction de communautés politiques composites et de leur intégration – plus ou moins réussis mais en général suffisants pour autoriser le prélèvement fiscal dans des conditions acceptables.

<sup>23</sup> S. Reynolds, *Kingdoms and Communities in Western Europe 900-1300*, Oxford 1997, tout spécialement le dernier chapitre.

<sup>24</sup> J. Given, *State and Society in Medieval Europe. Gwynedd and Languedoc under Outside rule*, Ithaca et Londres 1990.

<sup>25</sup> C. Beaune, *Naissance de la nation France*, Paris 1985.

<sup>26</sup> R.R. Davies, *The Matter of Britain and the Matter of England*, Oxford 1996 ; R.R. Davies, *The First English Empire. Power and Identities in the British Isle 1093-1343*, Oxford 2000 (The Ford Lectures Delivered in the University of Oxford in Hilary Term 1998) ; R.R. Davies, *Heartlands and Outbacks: The Medieval English Empire*, Oxford 2000.

Or, cet effort n'a pas été accompli par les cités ou, du moins, il n'y est guère perceptible. En fait, il ne s'agit pas d'un retard, ou d'une déficience, mais bien d'un choix des membres des couches dominantes de la société politique italienne. D'une façon générale, les cités ont largement précédé les états monarchiques pour tout ce qui relève non seulement des pratiques administratives et des techniques financières, mais aussi (et peut-être surtout) des moyens de communication et des méthodes de propagande<sup>27</sup>. Elles les utilisent d'ailleurs largement pour résoudre, pour le bien et le profit communs, les problèmes d'hygiène, d'urbanisme, d'approvisionnement en eau ou en nourriture qui se posent à la cité, mais en général à la cité principale seule. Leurs célébrations, leurs rituels, leurs fêtes<sup>28</sup> exaltent toujours la Dominante seule, et d'ailleurs rarement son *contado*, sans accorder de réelle importance aux cités alliées ou soumises<sup>29</sup>. Il faut attendre précisément le développement de ces états régionaux chers à Giorgio Chittolini pour assister à la mise en place d'une politique exaltant l'unité autour, par exemple, de la dynastie seigneuriale comme dans la Milan des Sforza<sup>30</sup>, ou le rôle des Médicis sur l'ensemble des composantes du territoire dominé par Florence<sup>31</sup>. On a l'impression que toute l'énergie de la cité dans ce domaine est consacrée à se défendre des forces centrifuges qui la travaillent, à lutter contre les partis et les factions dont le jeu complexe fait partie de l'idée même de liberté qui est son essence. Cet isolement de la cité et son retard à construire un territoire qui dépasse le sien propre et la contraigne à élargir la société politique dont elle dépend est sans doute l'un des freins qui a interdit aux cités italiennes dont l'essor précoce présente bien des caractères de modernité de se développer sur des lignes comparables à celles des monarchies d'Occident, même lorsque la *signoria* y est devenue la forme politique principale<sup>32</sup>.

<sup>27</sup> Nombreux exemples dans *Le forme della propaganda politica nel Due e nel Trecento*, éd. par P. Cammarosano, Rome 1994 (Collection de l'École Française de Rome, 201).

<sup>28</sup> Ch. Klapisch-Zuber, *Rituels publics et pouvoirs d'État*, dans *Culture et idéologie dans la genèse de l'État moderne*, Rome 1985 (Collection de l'École Française de Rome, 82), pp. 135-144.

<sup>29</sup> R.C. Trexler, *Public Life in Renaissance Florence*, New York 1980 et E. Muir, *Civic ritual in Renaissance Venice*, Princeton 1981. Sur ces ouvrages, précieux est le commentaire synthétique de P. Braunstein et C. Klapisch-Zuber, *Florence et Venise : les rituels publics à l'époque de la Renaissance*, dans « *Annales E.S.C.* », 38 (1983), 5, pp. 1110-1124. Voir aussi, pour des approches plus récentes, *Le destin des rituels : faire corps dans l'espace urbain, Italie, France, Allemagne*, éd. par I. Taddei et G. Bertrand, Rome 2008 (Collection de l'École Française de Rome, 404) et É. Lecuppre-Desjardin et A.-L. Van Bruaere, *De Bono communi : the discourse and practice of the Common Good in the European city (13th-16th cent.)*, Turnhout 2010.

<sup>30</sup> Dans *Le souvenir d'Ambroise*, mémoire inédit pour l'habilitation à diriger les recherches (Paris, décembre 2009), Patrick Boucheron montre comment les Sforza n'ont pu capitaliser sur le culte de Saint Ambroise, trop lié à Milan et surtout à sa Commune et ont essayé de développer d'autres cultes plutôt dynastiques et acceptables par les autres cités de leurs domaines, dont beaucoup avaient d'ailleurs un long passé de luttes contre Milan.

<sup>31</sup> Voir I. Taddei, *Le système politique florentin au XV<sup>e</sup> siècle*, dans *Florence et la Toscane, XIV<sup>e</sup>-XV<sup>e</sup> siècles. Les dynamiques d'un État italien*, éd. par J. Boutier, S. Landi et O. Rouchon, Rennes 2004, pp. 39-63.

<sup>32</sup> Cf. Jones, *The Italian city-state* cit.

5. À plusieurs reprises, il a été fait mention de la société politique, qu'il s'agisse de la cité-état italienne ou des monarchies occidentales. C'est en effet elle qui, par le rapport qu'elle entretient avec le détenteur du pouvoir d'État qui détermine à la fois les formes et l'évolution de ce dernier. La genèse de l'État moderne est d'abord une sociogenèse. Quel que soit le grand intérêt des propositions d'un Pierre Legendre sur le rôle de la religion et du « monument romano-canonique » dans la naissance de l'État en Occident<sup>33</sup>, l'État prend corps dans un dialogue tourmenté avec la société politique, à partir du moment où celle-ci existe elle-même – la place me manque pour élucider cette dernière proposition. Et c'est ici que les remarques de Giorgio Chittolini sur le système des institutions, des pouvoirs et des pratiques trouvent leur pleine application.

On me pardonnera, je l'espère, de prendre l'exemple du cas anglais, qui est celui de mes recherches personnelles<sup>34</sup>. Le roi d'Angleterre est d'abord un souverain féodal : tous ceux qui tiennent de lui en chef, ont à leur tour des vassaux. Cette structure féodale existe pendant toute la période médiévale et même après, mais elle s'est assez vite transformée (beaucoup plus vite qu'en France, par exemple). Les sous-inféodations sont devenues impossibles et aux liens de vassalité traditionnels s'est surajouté à partir du XIII<sup>e</sup> siècle ce qu'il est depuis Charles Plummer convenu d'appeler le *bastard feudalism*, fondé sur un type de contrat dans lequel le « seigneur » rétribue en général le service (précisé dans ses moindres détails selon que l'on est en guerre ou en temps de paix) que lui rend son « homme » (le *retainer*) par une rente en argent et surtout – cela finira par devenir la seule contrepartie – par la protection de « sa bonne seigneurie ». Ce système joue un rôle majeur dans les levées militaires qui permettront les succès militaires anglais en Ecosse et sur le continent. La « bonne seigneurie » (qu'on l'appelle patronage ou *brokerage* si l'on veut) joue à tous les niveaux, notamment à celui des élections parlementaires et à celui des cours de justice royale mais, pour les affaires les plus délicates ou les plus importantes, au conseil royal où il est possible d'obtenir l'appui du roi lui-même ou des membres les plus influents de son gouvernement. La « bonne seigneurie », en fait la protection du *lord*, joue elle aussi un rôle dans le développement de l'État, dans la mesure où elle offre à ses bénéficiaires une garantie qui les pousse à tolérer les interventions du gouvernement royal (dont ils peuvent éventuellement être les bénéficiaires) et notamment à accepter pour régler leurs différends de s'en remettre aux cours de justice royales. Le conseil royal est une institution encore assez peu formalisée qui entretient des relations complexe avec le Parlement, où siègent des représentants élus des *boroughs* et des *county courts*, donc de communautés locales. Par le Parlement, mais aussi par des voies plus directes, circulent des milliers de pétitions, qui permettent aux membres de la société

<sup>33</sup> Voir en particulier P. Legendre, *Leçon VII. Le désir politique de Dieu. Étude sur les montages de l'État et du Droit*, Paris 2005<sup>2</sup> [1988] et *Leçon IX. L'autre Bible de l'Occident. Le Monument romano-canonique. Étude sur l'architecture dogmatique des sociétés*, Paris 2009.

<sup>34</sup> J.-Ph. Genet, *La Genèse de l'État moderne. Culture et société politique en Angleterre*, Paris 2003.

politique d'atteindre directement la tête de l'État, en l'occurrence le souverain. Ajoutons enfin que la seigneurie « rurale » fonctionne à la fois comme institution de prélèvement mais aussi d'encadrement, par l'intermédiaire notamment des justices seigneuriales, et qu'elle exerce donc un rôle importants de maintien de l'ordre<sup>35</sup>.

Le pouvoir et le gouvernement, dans un tel système, ne viennent ni d'en haut, ni d'en bas. Ils sont sans cesse produits par une négociation et des réajustements permanents dans un rapport complexe où interviennent tous les acteurs de la société politique<sup>36</sup> : au premier chef les membres de l'aristocratie seigneuriale, de la noblesse<sup>37</sup> aux couches inférieures de la *gentry*, dont les positions dépendent à la fois des relations internes (tant au niveau local que familial) aux différents groupes, et des relations externes entretenues avec les différents niveaux de la paysannerie libre ou servile ; les oligarchies urbaines, elles-mêmes liées aux différents métiers et aux populations non franchisées des villes, jouent aussi un rôle important (notamment les marchands de Londres, dont les prêts et les contributions plus ou moins volontaires sont essentielles pour les finances royales). Et enfin, il y a l'Église, qui est loin d'avoir un caractère monolithique, et qui a noué elle-même des relations complexes et plus ou moins intense avec toutes sortes de communautés (paroisses, confréries etc.) sans parler de ses liens avec la Papauté ou avec les instances internationales qui gouvernent les différents ordres religieux. Dans un tel système, les liens sont étroits et indémêlables entre les individus intégrés dans les hiérarchies féodales et seigneuriales et le fonctionnement de l'appareil d'État embryonnaire (le « gouvernement », c'est-à-dire le conseil royal et les grands officiers d'État (chancelier, garde du sceau privé, trésorier et leurs maigres bureaucraties), l'Échiquier (la seule véritable agence administrative, la première à exister en Europe en dehors de la papauté), les cours de justice royales, les institutions représentatives (le Parlement, les *borough councils*), les représentants royaux dans les localités (du *sheriff* au *constable*) et les innombrables détenteurs de commission, membres de la noblesse, de la *gentry* ou des oligarchies urbaines : c'est pourquoi je préfère décrire ce système comme un féodalisme d'État.

Et d'État moderne, pourrait-on dire : le cœur du système est bien cette relation entre la société politique et le détenteur du pouvoir souverain,

<sup>35</sup> Vues d'ensemble remarquable dans Harriss, *King, Parliament* cit., et surtout dans *Shaping the Nation. England 1360-1461*, Oxford 2005.

<sup>36</sup> L'étude la plus fouillée du fonctionnement de ce « système d'institutions et de pratiques » est sans doute celle de C. Carpenter, *Locality and Polity : a Study of Warwickshire Landed Society, 1401-1499*, Cambridge 1992.

<sup>37</sup> C'est évidemment le point crucial pour les monarchies d'Occident : l'État y est produit par un dialogue conflictuel entre une aristocratie qui ne peut se passer d'un État qui la construit tout autant qu'il la détruit en permanence. Mais le problème est tout aussi complexe en Italie : voir de G. Chittolini, *Inf feudazione e politica feudale nel ducato visconteo-sforzesco*, dans « Quaderni storici », 7 (1972), 19, republié dans *La formazione della Stato regionale* cit., pp. 51-94. Et, récemment, J.-C. Maire-Vigueur, *Cavaliers et citoyens : guerre, conflits et sociétés dans l'Italie communale (XII<sup>e</sup>-XIII<sup>e</sup> siècle)*, Paris 2003 sur le rôle de la *militia* dans les cités et R. Bordone, G. Castelnovo, G.M. Varanini, *Le aristocrazie dai signori rurali al patriziato*, Roma-Bari 2004 sur l'aristocratie en général.

appuyé sinon sur une constitution, du moins sur un consensus assez général sur ce qu'il est permis de faire ou non<sup>38</sup>. La communication politique entre tous ces groupes est indispensable à la cohésion de l'ensemble, mais la mutation culturelle de l'Occident l'a rendue possible depuis la fin du XII<sup>e</sup> siècle, et elle fonctionne effectivement par l'intermédiaire du vernaculaire, des images, des rituels et des liturgies dans un espace que l'on peut considérer comme public<sup>39</sup>, atteignant jusqu'aux couches inférieures de la population (les mots d'ordre circulant lors des révoltes populaires le prouvent)<sup>40</sup> qui sont de toutes façons atteintes par l'impôt. Les institutions représentatives sont là, et elles ont le pouvoir de refuser l'impôt qui ne peut être levé, du moins pour l'essentiel, sans leur consentement.

Une analyse de même nature peut être faite pour la France, pour les royaumes ibériques, pour les États bourguignons, pour plusieurs principautés germaniques et, à n'en pas douter, pour les cités puis pour les États régionaux italiens, y compris peut-être le royaume de Naples. À des époques bien plus récentes, on peut tenter de le faire pour les royaumes scandinaves, pour la Prusse, voire pour l'Autriche, la Russie. Il faut bien sûr chaque fois apporter les correctifs, sociaux, institutionnels ou chronologiques qu'impose chaque situation concrète, et ne pas perdre de vue qu'il y a tout de même des limites – ce qui pose bien sûr et cette fois sous un angle bien différent le problème du rapport entre « État moderne » et « État contemporain »<sup>41</sup>. Une chose est certaine : il ne faut pas partir d'un État pourvu d'une base matérielle, même s'il a un territoire, mais d'une relation entre un détenteur d'autorité et des groupes sociaux : une autorité qui va tendre à devenir souveraine, des groupes sociaux qui vont se transformer en société politique et façonner l'État lui-même par le dialogue qu'ils entretiennent avec l'autorité souveraine. À partir du moment où cette relation est établie et fonctionne, l'État – et en l'occurrence l'État moderne – va pouvoir cristalliser et commencer le long chemin qui conduit jusqu'à nous et n'est probablement pas terminé. Au fait, Karl Marx ne disait pas vraiment autre chose<sup>42</sup>.

<sup>38</sup> C. Carpenter, *The Wars of the Roses*, Cambridge 1997 se fait ainsi l'avocate d'une nouvelle « histoire constitutionnelle » ... qui n'aurait pas besoin de constitution.

<sup>39</sup> D'où l'intérêt de ce concept qu'il faut adapter à partir de la vision très limitée chronologiquement de J. Habermas, *L'espace public. Archéologie de la publicité comme dimension constitutive de la société bourgeoise*, Paris 1978 (*Strukturwandel der Öffentlichkeit*, Berlin 1962).

<sup>40</sup> S. Justice, *Writing and Rebellion. England in 1381*, Berkeley 1994.

<sup>41</sup> Voir les contributions dans *The Heritage of the Pre-Industrial European State*, éd. par W. Blockmans, J. Borges de Macedo et J.-Ph. Genet, Lisbonne 1996 et B. Badie, *L'État importé : essai sur l'occidentalisation de l'ordre politique*, Paris 1992.

<sup>42</sup> Maurice Godelier signale à propos que pour Marx l'État est une structure dont les fonctions et les formes se comprennent seulement lorsqu'on trouve leurs connexions intimes avec la hiérarchie des ordres, castes et classes qui caractérisent certaines sociétés, hiérarchie qui s'éclaire elle-même par rapport à diverses formes de propriété, communes ou privées : M. Godelier, *Ordres, classes, état chez Marx*, dans *Visions sur le développement des États Européens. Théories et historiographies de l'État Moderne* (édition en collaboration avec W. Blockmans), Rome 1993 (Collection de l'École Française de Rome, 171), pp. 117-135 (cit. à la p. 129).



## ***Villa and landscape in the Venetian State***

by James S. Grubb

Recording the outbound leg of his journey through the *terraferma* in 1483, Marin Sanudo did not remark on any rural establishments of Paduans. He did, on the other hand, note the «caxe de Venitiani nostri» in Noventa, several Venetians' houses around Piove di Sacco and Monselice, the «bello giardino» of Antonio Erizzo in Este, the «caxa grande, più bella vi sia» of Dolfino Dolfin in Lendinara, the house in Figarolo in which Federico Corner was recovering from illness, and his kinsman Piero Sanudo's house near Legnago. When he reached Veronese territory on the return leg, Sanudo passed through Parona, «ch'è di Marchesi Spinelli» and eventually through Caldiero, «dove è la caxa de Daniel Banda», then through a hamlet near Soave, where Gregorio Lavagnolo's house had a «mirabellissima» pergola before the main door, then through Cologne, home to the «bellissima» house of Antonio Zenaro, then through Zimella where the Veronese Lunardo Nogarola lived, then through Meledo, «dove è la caxa di Gasparo de Renaldo vicentino». Completing the journey through northern Padua and Treviso, Sanudo only twice remarked on rural houses belonging to citizens of those places; he did, however, note the country retreats of Venetians Domenico Querini, Girolamo Malipiero, Piero Vitturi, Clemente Tedaldini, Troilo Malipiero, Nicolò Baffo, Antonio Marcello, Francesco Valier, Nicolò Foscari, the Tiepolo and the Vendramin, Bortolo Malombra, Antonio Lion, and Zaccaria Vendramin<sup>1</sup>.

That is to say, Sanudo found many country houses of Venetians, Veronese and Vicentines worthy of note, but seldom found those of Paduans or Trevisans remarkable (or frequent) enough to merit his attention. His is a highly unbalanced presentation. But Sanudo was also a systematic and dutiful reporter. His *Itinerario* suggests that there were more frequent or more prominent rural dwellings in the Veronese and Vicentine than elsewhere in the Veneto, and that Venetians were regular owners and/or inhabitants of country houses throughout the region. If Sanudo had extended his observations to Venice proper, he could have noted the rich

<sup>1</sup> *Itinerario di Marin Sanuto per la terraferma veneziana nell'anno MCCCCLXXXIII*, ed. R. Brown, Padova 1847. For Venetian-owned houses, p. 29, 31-33, 35-36, 43, 50; for Verona, p. 59, 61, 95, 102, 104-106; for Vicenza, p. 107-111; for later Venetian houses, p. 114-119, 131-132.

cluster of villas on Murano and the Giudecca, further emphasizing Venetians' love of rural *otium*<sup>2</sup>.

The hypothesis of differing regional levels of engagement with landscape finds corroboration in Martin Kubelik's magisterial catalogue of Quattrocento villas in the Veneto. For the modern-day province of Venice, Kubelik lists thirteen Quattrocento villas; for Treviso, fifteen; for Padua, twenty-one; for Verona, thirty-five; for Vicenza, a stunning one hundred seventy-eight, or two-thirds of the total for the entire region<sup>3</sup>. It is certainly possible to quibble with Kubelik's criteria for classification of a building as a villa<sup>4</sup>; some of his examples appear to the untrained eye as simple farmhouses. The fact remains, however, that Kubelik applied his criteria uniformly throughout the region, and so the Vicentine preponderance in his catalogue cannot be explained away as arbitrary. The apparent asymmetry in extant villas might, alternatively, be ascribed to the vagaries of preservation: many Quattrocento villas were later rebuilt or demolished, so that the situation today does not perfectly mirror that of six centuries back. Still, by any logic the reconstruction or destruction of Quattrocento buildings would have taken place evenly across the region, and would not have spared the Vicentine alone. Ultimately, it does not seem possible to explain the Vicentine preponderance of Quattrocento villas – and the clear superiority of Verona over Padua and Treviso – in terms of anything other than local preference.

That tastes for the rural life should have been uneven in the Veneto, even in adjoining cities, should not come as a surprise. In other areas – degree of political autonomy and economic fortunes, above all – scholars emphasized difference within the region, not uniformity, despite common subjection to Venetian rule. Beginning with the canonical work of Angelo Ventura<sup>5</sup>, historians have argued that the experiences of Veneto cities and their hinterlands, especially with regard to governance and the economy, were fundamentally at odds with each other. Varanini has even questioned whether the Veneto constituted a region at all, so profound were local variations<sup>6</sup>.

A fondness for country houses could only come about when urban elites felt a compelling bond with the land and wished to enjoy rural life. This paper

<sup>2</sup> E. Bassi, *Ville della provincia di Venezia*, Milano 1987, p. 28-39; R.J. Goy, *Venetian vernacular architecture*, Cambridge 1989, p. 172-175, 185-250; L. Puppi, *The villa garden of the Veneto from the fifteenth to the eighteenth century*, in *The Italian Garden*, ed. D.R. Coffin, Washington 1972, p. 92; D. Cosgrove, *The Palladian Landscape. Geographical Change and its Cultural Representations in Sixteenth-Century Italy*, University Park 1993, p. 52-54.

<sup>3</sup> M. Kubelik, *Die Villa im Veneto: zur typologischen Entwicklung im Quattrocento*, München 1977, vol. I (combining Group 1 and Group 2).

<sup>4</sup> Thus Mazzotti, with different criteria, listed twenty-four Quattrocento villas in Verona, compared with Kubelik's thirty-five: cited in E. Turri, *Geografia delle ville*, in *La villa nel veronese*, ed. G.F. Viviani, Verona 1975, p. 29.

<sup>5</sup> A. Ventura, *Nobiltà e popolo nella società veneta del '400 e '500*, Bari 1964 (Milano 1993<sup>2</sup>).

<sup>6</sup> G.M. Varanini, *Élites cittadine e governo dell'economia tra comune, signoria e 'stato regionale': l'esempio di Verona*, in *Strutture del potere ed élites economiche nelle città europee dei secoli XII-XVI*, ed. G. Petti Balbi, Napoli 1996, p. 157.



will argue that that resources and value systems connected with rural construction varied greatly among the different elites in the region. In Padua and Treviso, the bonds between urban patriciates and the countryside suffered significant erosion over the course of the Quattrocento, and with them eroded both the incentive and the opportunities to build villas. In Vicenza and Verona, on the other hand, the urban elite remained more frequently and deeply connected to the land, and this was manifest in more regular construction of rural habitations. Venetians experienced both a rapid growth in ownership of *terraferma* land and a desire to enjoy the the landscape of the hinterland.

The close nexus between patriciate and *paese* depends, above all, on the sheer fact of land ownership. For Venetians, the story is well known, and there is broad consensus among historians. From at least the thirteenth centuries onwards, Venetians – religious houses and individuals – began to amass significant lands on the mainland. The Venetian patrimony was overwhelmingly concentrated in the eastern and southern Padovano and Trevigiano, closest to the river systems that carried agricultural goods to the lagoon and that allowed transport of goods to and from industrial workshops on the mainland. The process of land accumulation continued in the Trecento, despite recurrent tensions with the lords of those mainland towns. Venetian landholding in Vicenza and Verona remained negligible, owing to difficulties in transport of foodstuffs and difficulties in managing distant properties<sup>7</sup>.

Venetian purchases accelerated over the course of the Quattrocento, even extending to new areas such as the Polesine (after 1484)<sup>8</sup>. The earliest and best known of the transfers came in the auctions that dispersed the patrimony of the Carraresi, which has been estimated as comprising up to one-quarter of the Padovano<sup>9</sup>. Not all went to Venetians, of course, as both the Paduan

<sup>7</sup> L.A. Ling, *La presenza fondiaria veneziana nel Padovano (secoli XIII-XIV)*, in *Istituzioni, società e potere nella Marca Trevigiana e Veronese (secoli XIII-XIV). Sulle tracce di G.B. Verci*, ed. G. Ortalli and M. Knapton, Roma 1988, p. 305-320; M. Pozza, *Podestà e funzionari veneziani a Treviso e nella Marca in età comunale*, *ibidem*, p. 291-303; G. Rosch, *La nobiltà veneziana nel Duecento: tra Venezia e la Marca*, *ibidem*, especially p. 268; M. Pozza, *Penetrazione fondiaria e relazioni commerciali con Venezia*, in *Storia di Treviso*, II, ed. D. Rando and G. M. Varanini, Venezia 1991, p. 299-321; V. Lazzarini, *Antiche leggi venete intorno ai proprietari nella terraferma*, in V. Lazzarini, *Proprietà e feudi, offizi, garzoni, carcerati in antiche leggi veneziane*, Roma 1960; Varanini, *Élites cit.*, p. 156-157; G.M. Varanini, *Proprietà fondiaria e agricoltura*, in *Storia di Venezia dalle origini alla caduta della Serenissima*, V (*Il Rinascimento: società ed economia*), ed. A. Tenenti and U. Tucci, Roma 1996, p. 807-810; G.M. Varanini, *Venezia e l'entroterra (1300 circa-1420)*, in *Storia di Venezia dalle origini alla caduta della Serenissima*, III (*La formazione dello stato patrizio*), ed. G. Arnaldi, G. Cracco and A. Tenenti, Roma 1997, esp. p. 167-168 and notes 17, 37-38, 44; A. Stella, *La proprietà ecclesiastica nella Repubblica di Venezia dal secolo XV al XVII*, in «Nuova rivista storica», 67 (1958), esp. p. 53, 56-57.

<sup>8</sup> G. Zalin, *Insediamiento di villa e proprietà fondiaria nei Polesini dei veneziani (sec. XVI-XIX)*, in «Archivio veneto», ser. V, 154 (2000), p. 85-102.

<sup>9</sup> V. Lazzarini, *Beni carraresi e proprietari veneziani*, in *Studi in onore di Gino Luzzatto*, I, Milano 1949-1950, p. 274.

elite and *districtuales* bought up lots; but Paduans simply could not compete with Venetians in the open market. Almost all of the major lots were bought by Venetians, and it is clear from the follow-up documentation that many Venetians subsequently purchased lands originally bought by locals. While many of the leading Paduan names are represented – Borromeo, Cortusi, Zabarella, Capodivacca, Buzzacarini, Capodilista – the lands they bought were usually only middling in size. Of the Paduans, only Prosdocimo Conti could compete with Venetian nobles (and some Venetian commoners), and his impact on the market paled in comparison with that of waves of Venetians<sup>10</sup>.

This initial sale was but the start of a steady string of transactions that transferred ownership to Venetians. If in 1429 there were some one hundred fifty-seven lay Venetian proprietors in the Paduan countryside, by mid-century there were something on the order of twice that<sup>11</sup>. By 1448 the incidence of Venetian ownership was so great – and the potential for tax disputes so great – that the Paduan commune was compiling registers of absentees<sup>12</sup>. Several large properties belonging to Paduan families went on the market, and were snatched up by Venetians. The original Venetian impulse of securing foodstuffs continued as a primary motivation, but industrial properties (mills, fulling stations, paper-making facilities, quarries) were now attractive as well. In consequence, Venetian ownership spread throughout the Padovano, unlike the situation in the previous century when proximity to the lagoon was paramount<sup>13</sup>. As early as 1446, the Paduan council's orators were claiming that Venetians held one-third or more of the possessions and incomes of the Paduan countryside; in the early Cinquecento, Girolamo Priuli put the figure at two-thirds<sup>14</sup>.

Some caution is needed here, however. While auction rolls and lists of Venetian proprietors are impressive, and without question indicate a widespread redistribution of property, the degree to which Paduans were being squeezed out of their own countryside is open to question. The orators' claim of 1446 was designed for rhetorical impact, and cannot be taken at face value; it was repeated wholesale in 1501, indicating that it had now assumed the status of a commonplace<sup>15</sup>. For his part, Priuli was notoriously opposed to Venetian land ownership on the mainland, and had his own reasons for exag-

<sup>10</sup> Archivio di Stato di Venezia (= ASVen), Consiglio de' Dieci, Miscellanea Codici, reg. 83a: *Liber venditionum possessionum rebellium Paduae* (1406-1509).

<sup>11</sup> Ling, *Presenza* cit., p. 312, 318-319.

<sup>12</sup> A.J. Mira Jódar, *Le aziende agricole veneziane nel territorio padovano alla metà del XV secolo: struttura e gestione*, in «Società e storia», 25 (2002), fasc. 97, p. 441-456.

<sup>13</sup> Varanini, *Proprietà fondiaria* cit., esp. p. 812-822, 831-834.

<sup>14</sup> Lazzarini, *Antiche leggi* cit., p. 9; Lazzarini, *Beni carraresi* cit., p. 275-277.

<sup>15</sup> M. Knapton, *I rapporti fiscali tra Venezia e la terraferma: il caso padovano nel secondo '400*, in «Archivio veneto», ser. V, 117 (1981), p. 8-9. The one-third figure was still in circulation at the end of the Cinquecento: D. Beltrami, *La penetrazione economica dei veneziani in terraferma. Forze di lavoro e proprietà fondiaria nelle campagne venete dei secoli XVII e XVIII*, Venezia-Roma 1961, p. 51-52.

generation. More reliable figures, from the early Seicento<sup>16</sup>, indicate that by that time Venetians owned some 38% of the Padovano; and since the period of greatest Venetian accretion was by all accounts the Cinquecento<sup>17</sup>, the figure for the Quattrocento must have been far lower.

Still, it was far from derisory. Additionally, the Quattrocento saw a concerted effort by Venetian ecclesiastical bodies to recover control of lands that had been usurped or wrongly alienated during previous lordships<sup>18</sup>; since these were held by local patricians as favorites of the bygone Carraresi, their recovery by Venetian religious houses would have constituted a further erosion of Paduan patricians' holdings. In absolute terms, then, the property available for Paduans was shrinking rapidly: the fundamental connection between city-dwellers and the surrounding land was inevitably shrinking as well.

Treviso too experienced an expansion of Venetian land ownership, though at a less robust rate than was the case for Padua. To be sure, there had been a long tradition of Venetian penetration: already by 1325 the local government was keeping a register of Venetian possessions<sup>19</sup>. However, at the auctions of 1423-1430 that dispersed the lands formerly possessed by the da Camino and Carrara signori and a few rebels, nearly all the buyers were local. Of the few Venetians in the market, fewer still made major purchases<sup>20</sup>. Thereafter, while Venetian accumulation continued, it does not appear to have intensified, and the Venetian presence was slight in the hills and the lands away from river systems<sup>21</sup>. When figures become reliable, in the early Seicento, the rate of Venetian ownership was about 19%, or half that in Padua – but, again, that comes just after the greatest period of expansion, so Quattrocento figures would not have approached it. Working from tax returns of 1542, Nicoletti calculates that lands owned by foreigners (including Venetians) seldom reached 10% in any one jurisdiction<sup>22</sup>.

In Verona and Vicenza, on the other hand, local ownership was overwhelmingly the norm. Venetians certainly had the opportunity to acquire Veronese territory, in two separate mass auctions of Veronese land. In the liquidation of the Scaligeri holdings, shortly after the Republic gained control

<sup>16</sup> Beltrami, *Penetrazione* cit., p. 60, note 2.

<sup>17</sup> Starting with an auction of the goods of Paduan rebels from 1511 onwards: ASVen, Consiglio de' Dieci, Miscellanea Codici, reg. 83b; and see A. Bonardi, *I padovani ribelli alla repubblica di Venezia*, Venezia 1902 (Miscellanea di storia veneta, ser. II, vol. 8); G. Del Torre, *Venezia e la terraferma dopo la guerra di Cambrai. Fiscalità e amministrazione (1515-1530)*, Milano 1986, p. 163.

<sup>18</sup> Stella, *Proprietà* cit., p. 56-65.

<sup>19</sup> Lazzarini, *Antiche leggi* cit., p. 9; see in general Pozza, *Penetrazione fondiaria* cit.; Varanini, *Proprietà* cit., p. 824-827.

<sup>20</sup> ASVen, Ufficiali alle Rason Vecchie, b. 47. The only major Venetian buyer was the noble Benedetto da Molin (ff. 55v, 57v), but he quickly alienated the land; see also Marco Duodo on ff. 62v-63r, 63r-v, 64r.

<sup>21</sup> Varanini, *Proprietà* cit., p. 824-829, 834-842.

<sup>22</sup> G. Nicoletti, *Due villaggi della collina trevigiana. Paesaggio, proprietà e aziende nei secoli XV e XVI*, in *Due villaggi della collina trevigiana. Vidor e Colbertaldo*, ed. D. Gasparini, III, 1, Vidor (Treviso) 1989, p. 51-52; Beltrami, *Penetrazione* cit., p. 60, note 2.

of the city, Venetians bought up about one-quarter of the lands, as measured in sale price; they also tended to purchase lands in the southern plains, which were destined for significant economic expansion over the course of the century<sup>23</sup>. Toward mid-century Venetian officials sold off the considerable holdings of Alvise Dal Verme and a few other rebels, but this time there were few Venetian buyers, and scarcely more than a score of Venetian purchases<sup>24</sup>. Thereafter, the pace of Venetian acquisition tailed off, and even in the southern Veronese the proportion of Venetian owners never approached that of Veronese patricians<sup>25</sup>.

In Vicenza it is hard to find Venetian owners at all: an initial search two decades ago revealed no more than a handful, and Varanini in subsequent research could not add much to the list. A recent study views Venetian ownership as «irrelevante»<sup>26</sup>. The reasons for that paucity are readily apparent. The Vicentine patriciate had a long tradition of compliance with rulers, such that there were never mass persecutions or confiscations. The lack of large, compact jurisdictions made it unlikely that significant holdings would become available through marriage, extinction, seizure or sale. The Scaligeri had never held much Vicentine land, such that – uniquely in the region – Venetians did not bother to auction off the public patrimony at the time of annexation. And Venetians had little reason to acquire land in the Vicentine, which offered inferior transport routes to the lagoon. Even after the pace of Venetian acquisition picked up in the Cinquecento, Venetian ownership remained at barely perceptible levels well into the Seicento<sup>27</sup>.

A second factor in building a strong nexus between urban patriciate and countryside was the continuity and stability of that patriciate. Where turmoil constantly roiled the ranks of the elite, ties to the land were constantly broken and re-formed, and were not likely to be powerful and enduring. This was especially the case in Padua. The Trecento had featured recurrent plots, exiles, executions and confiscations; the harsh climate of the restored regime

<sup>23</sup> Varanini, *Proprietà* cit., p. 810-812; G. Sancassani, *I beni della «Fattoria scaligera» e la loro liquidazione ad opera della repubblica veneta, 1406-1417*, in «Nova historia», 12 (1960), p. 100-157.

<sup>24</sup> For one important Venetian acquisition, see P. Mometto, *L'azienda agricola Barbarigo a Carpi: gestione economica ed evoluzione sociale sulle terre di un villaggio della bassa pianura veronese, 1443-1539*, Venezia 1992; and see Varanini, *Proprietà* cit., p. 849-850.

<sup>25</sup> ASVen, Governatori delle pubbliche entrate, reg. 170 (for Venetians, see ff. 7r, 22v, 25r, 29r, 39r, 58v, 62r, 206v-207r, 218r-225r, 264v-265v, 275r-276r, 332r-333v). There are a few additional sales on folios where the foliation is mutilated or absent. See also Varanini, *Proprietà* cit., p. 849-851.

<sup>26</sup> J.S. Grubb, *Firstborn of Venice. Vicenza in the Early Renaissance State*, Baltimore and London 1988, p. 169; Varanini, *Proprietà* cit., p. 852-853; S. Zamperetti, *Poteri locali e governo centrale in una città suddita d'antico regime dal dopo Cambrai al primo Seicento*, in *Storia di Vicenza*, III/1, ed. F. Barbieri and P. Preto, Vicenza 1989, p. 76 (source of quote); and see also A. Menniti Ippolito, *La «fedeltà» vicentina e Venezia. La dedizione del 1404*, in *Storia di Vicenza* III/1, cit., esp. p. 30-31.

<sup>27</sup> Beltrami, *Penetrazione* cit., p. 60, note 2.

of Francesco Novello brought about the «capricious and illegal sequestering of the property of Paduan citizens» in the latter years of the century. Venetian removal of the Carraresi in 1406 was only to be expected; into exile, as well, went «several of the closest servants of the Carrara government». The repression of further rebellions, most notably those of 1435 and 1439, removed another share of the patriciate. Ventura has calculated that, of the 83 leading families in April 1372, only 49 were still active in the period 1430-1446<sup>28</sup>.

The Paduan patriciate as such was not diminished by the turmoil: new favorites always replaced the old, and were well-rewarded with lands «confiscated from the regime's enemies»<sup>29</sup>. There was always an elite, always with considerable landed patrimonies. But the new favorites were precisely that: new to power, and new to their lands. Many, it is clear from Benjamin Kohl's prosopographical studies, had backgrounds in law or commerce, not the countryside. Whatever their origins, they lacked ancestral ties to the lands they came to hold. That is to say, the fundamental nexus between patrician and country estate – which is posited here as the primary requisite for villa construction – was, if not lacking altogether, much more recent and consequently much less compelling.

Verona too saw its share of new faces, but the turnover was far less drastic and the disruptions considerably muted. New Scaligeri favorites took their places in the top ranks, alongside the considerable vestiges of the old communal elites, but without a violent eclipse of the latter by the former. In the rapidly expanding state, there was plenty of opportunity for all. To be sure, each succeeding Scaligeri *signore* had his own personal favorites, and individual worthies came and went with some regularity, but mass proscription was never the order of the day<sup>30</sup>. Successive takeovers by the Visconti and the Venetian Republic were relatively calm, at least in comparison with the Paduan case. Even so, several families who reached the upper levels of society over the course of the Quattrocento were either newly arrived in the city, or were of merchant background, or were a combination of the two<sup>31</sup>. Lacking

<sup>28</sup> In general see B.G. Kohl, *Padua under the Carrara, 1318-1405*, Baltimore and London 1998, p. 81-82, 90-91, 97, 129, ch. 6, 249-250, 255, 260-265, 270-272, 284-285, 290-291; B.G. Kohl, *Fedeltà e tradimento nello stato carrarese*, in *Istituzioni, società e potere* cit., p. 41-63; B.G. Kohl, *Government and society in Renaissance Padua*, in «Journal of Medieval and Renaissance Studies», 2 (1972), p. 205-221 (quotes on p. 214); Ventura, *Nobiltà* cit., p. 54, 65-66.

<sup>29</sup> B.G. Kohl, *The Paduan Elite under Francesco Novello da Carrara (1390-1405). A Selected prosopography*, in B.G. Kohl, *Culture and Politics in Early Renaissance Padua*, Aldershot 2001, selection XIII, p. 252.

<sup>30</sup> G.M. Varanini, *Gli Scaligeri, il ceto dirigente veronese, l'élite «internazionale»*, in *Gli Scaligeri 1277-1387. Saggi e schede pubblicati in occasione della mostra documentaria allestita dal Museo Castelvecchio di Verona (giugno-novembre 1988)*, a cura di G.M. Varanini, Verona 1988, p. 113-124; and other essays in the second section of the volume.

<sup>31</sup> M. De Martin, *Da borghesi a patrizi. I Trivelli di Verona nel Trecento e Quattrocento*, in «Studi storici Luigi Simeoni», 38 (1988), p. 83-107; C. Bismara, *I Vismara, dazieri e mercanti nella Verona del XV secolo*, in «Studi storici Luigi Simeoni», 51 (2001), p. 233-255. For the Stoppa see E. Demo, *L'anima della città». L'industria tessile a Verona e Vicenza (1400-1550)*,

deep roots in the countryside, these might not be expected to have as much great impetus for construction of country seats as their colleagues who had long been feudatories and proprietors.

The Quattrocento Vicentine patriciate was undoubtedly fortunate that the city had not been a leading player in the turbulent political arena of the previous two centuries. Subject to a succession of foreign *signori*, but never wholly identified with them, the notables of Vicenza emerged from successive regime changes relatively unscathed. Paduan domination, in the thirteenth and early fourteenth centuries certainly brought friction, but even so the great families carried on without great disruption<sup>32</sup>. Scaligeri rule brought in many new families, but did not persecute the old; the same names in prominent positions in the Trecento largely recur in the Quattrocento, with a few additions<sup>33</sup>. The period of Visconti domination (1387-1404) may not have been a quiet interlude, as was once supposed; but if Giangaleazzo attempted major revisions in administration he did not attempt to remake the local elite. And if many elite families disappeared over the course of time, as seen in Battista Pagliarini's late Quattrocento catalogue *de familiis quae extinctae sunt et de eis vix memoria manet*, Vicentine losses were no worse than those of neighboring cities<sup>34</sup>. Whatever changes did transpire within the ranks of the Vicentine elite, they did not seriously disrupt patterns of land ownership. Certainly transfers did occur, and new families were added to the old – the establishment of the Monza in Dueville is a significant case in point<sup>35</sup> – but not through mass confiscation or mass redistribution of patrimonies. That factor, in turn, could only reinforce the nexus between urban patriciate and the countryside.

Evidence for that nexus comes from the most elemental marker of family identity. Varanini has rightly pointed out that, to a degree not found elsewhere in the Veneto, the notables of Vicenza chose toponyms as their family names<sup>36</sup>. His sample list might be considerably expanded by drawing upon Pagliarini's chronicle, whose exhaustive catalogue *de nobilibus nostrae civitatis familiis* – roughly in descending order of importance – is rife with toponymics such as the Trissino, Caldogno, Velo, Valmarana, Schio, Barbarano, Piovene, Angarano, Arsiero, Magre, and literally dozens of others<sup>37</sup>. As stable surnames emerged, local culture showed a striking preference

Milano 2001, s.v. Stoppa; *Family Memoirs from Verona and Vicenza (15<sup>th</sup>-16<sup>th</sup> centuries)*, ed. J.S. Grubb, Roma 2002, p. 135-143.

<sup>32</sup> G. Cracco, *Da comune di famiglie a città satellite (1183-1311)*, in *Storia di Vicenza*, II, ed. G. Cracco, Vicenza 1988, p. 126. Sections 14-20 cover the period of Paduan domination.

<sup>33</sup> G. M. Varanini, *Vicenza nel Trecento. Istituzioni, classe dirigente, economia*, in *Storia di Vicenza*, II cit., sections 11-16; G.M. Varanini, *Sul dominio scaligero a Vicenza (1312-1387)*, in *Gli Scaligeri* cit., p. 35-40.

<sup>34</sup> Battista Pagliarini, *Cronicae*, ed. J.S. Grubb, Padua 1990, p. 241.

<sup>35</sup> J.S. Grubb, *Patrimonio, feudo e giurisdizione: la signoria dei Monza a Dueville nel secolo XV*, in *Dueville: storia e identificazione di una comunità del passato*, ed. C. Povolo, Vicenza 1985, p. 253-306.

<sup>36</sup> Varanini, *Istituzioni* cit., p. 182.

<sup>37</sup> Pagliarini, *Cronicae* cit., p. 293.

that family names perpetuate a link between the patrician lineage and the village of origin. Surely it is significant that the Thiene, not at all old in Vicenza<sup>38</sup>, should follow that pattern in adopting a toponymic surname.

A third factor in maintaining a nexus between urban elite and countryside was territorial administration. The degree to which patricians were regularly and intensely engaged in the management of rural affairs, serving as vicars and feudatories, provides yet another index of the strength of bonds between urban elites and the *campagna*. In this regard the Trevisan elite was the least-favored of any in the region. Its weakness actually predated Venetian rule: the medieval urban commune had never fully imposed its will on the *signori* of surrounding territories, and many rural zones had been split off from urban jurisdiction. Under Venetian governance, much of the territory was divided into eight *quartieri*, each subordinate directly to the Venetian podestà and captain; there were also *podestarie* and fiefs held by Venetian patricians, Venetian *condottieri* and Venetian-appointed feudatories. Del Torre speaks of the «grande debolezza della sua classe dirigente nei confronti del potere centrale»; one corollary was the great weakness of that class relative to the *territorio*<sup>39</sup>.

The Paduan commune fared rather better, but its ruling body was only partially in command of rural expanses. To be sure, there were few feudal jurisdictions; but the Venetian Maggior Consiglio named its own citizens to seven *podestarie* of the countryside, while the Paduan council named its citizens to only six vicariates. Even that imbalance is misleading, since the Venetian-governed *podestarie* were vastly larger and wealthier than the Paduan-governed vicariates, counting 65% of the *bocche* and 83% of the *fuoghi*. Venetian rectors in Padua often sent commissioners into the countryside for specific tasks, furthering eroding the communal vicars' real authority – but in any case the vicars had only minor civil jurisdiction. Moreover, several of the larger cities in the territory were governed by their own statutes, several were possessed of their own councils, and several podestà possessed both civil and criminal jurisdiction, rendering Paduan authority tenuous in all but fiscal matters. In turn the towns and *quasi città* of the territory joined together into an alliance to assert themselves particularly in the area of taxation; a recent study notes the «progressivo allargamento degli spazi politici e istituzionali del Territorio», which could only have happened at the expense of the urban commune<sup>40</sup>.

<sup>38</sup> Varanini, *Istituzioni* cit., section III.

<sup>39</sup> G. Del Torre, *Il Trevigiano nei secoli XV e XVI. L'assetto amministrativo e il sistema fiscale*, Venezia 1990, chs. 1-4 (quote on p. 18); M. Knapton, *Venezia e Treviso nel Trecento: proposte per una ricerca sul primo dominio veneziano a Treviso*, in *Tomaso da Modena e il suo tempo: atti del convegno internazionale di studi per il 6. centenario della morte (Treviso 31 agosto - 3 settembre 1979)*, Treviso 1980, p. 49-52; S. Zamperetti, *I piccoli principi. Signorie locali, feudi e comunità soggette nello Stato regionale veneto dall'espansione territoriale ai primi decenni del '600*, Venezia 1991, p. 51-93.

<sup>40</sup> L. Favaretto, *L'istituzione informale. Il Territorio padovano dal Quattrocento al Cinquecento*,

If Venetian policy effected a growing *divario* between city and countryside in Padua and Treviso<sup>41</sup>, it did quite the opposite in Verona and Vicenza. It is true that the Veronese commune was far from holding a monopoly over the administration of justice in rural areas, since many privately-held vicariates were possessed of criminal as well as civil jurisdiction. There were upwards of sixty of these private jurisdictions, compared with two dozen or so vicariates to which the commune held rights of appointment<sup>42</sup>. Even so the net effect of Venetian arrangements was not, as in Padua and Treviso, truncation of the authority of the urban elite, for the simple reason that the private vicariates were largely held by members of the Veronese political class. The commune itself did not govern broad swathes of the countryside, but its leading families did, which – since the issue here is the degree of patrician engagement in rural life – amounted to much the same thing.

Vicenza had a turbulent past with respect to rural administration. Regime changes, and the ebb and flow of favorites within each regime, had continually reshaped the political map. By the later Trecento, however, nearly all private jurisdictions had disappeared, and the fifteen or so vicariates that remained were largely under communal control<sup>43</sup>. When the Venetian Republic acquired dominion, the urban commune sought jurisdiction over Cologna and Bassano, which was denied; and Venice placed its own governors over Lonigo and Marostica, and confirmed the substantial autonomy of the Sette Comuni. Still, the city government retained the capacity to name the eleven vicars that governed the remainder – the vast majority – of the countryside, and the tribunals of the city continued to hold criminal jurisdiction over the entire countryside<sup>44</sup>. There were, to be sure, a few fiefs, but their rights were minimal («irrelevanti», to Zamperetti), and in any case they were held by urban patrician clans. Further cementing the bonds of the urban élite to rural localities, the commune often conferred those vicariates upon citizens with extensive landed interests in the vicariate<sup>45</sup>.

If the Vicentine and (to some degree) Veronese patriciates were unusually favored with regard to some of the factors that might favor a villa culture – continuity of status and patrimony, degree of land ownership, and regular

Milano 1998, esp. p. 6-12, 94 (source of quote), 96-98, and tables 1-4; see also Zamperetti, *Piccoli principi cit.*, p. 109-117; S. Zamperetti, *Per una storia delle istituzioni rurali nella terraferma veneta: il contado vicentino nei secoli XVI e XVII*, in *Stato, società e giustizia nella repubblica veneta (sec. XV-XVIII)*, ed. G. Cozzi, I, Roma 1985, esp. p. 68; Zamperetti, *Poteri locali cit.*, p. 74.

<sup>41</sup> The phrase is that of L. Pesce: *Vita socio-culturale in diocesi di Treviso nel primo Quattrocento*, Venezia 1983, p. 321 (referring solely to Treviso; the application to Padua is mine).

<sup>42</sup> G.M. Varanini, *Il distretto veronese nel Quattrocento. Vicariati del comune di Verona e vicariati privati*, Verona 1980, esp. chs. 2-3, map 2, and appendices 7a-b.

<sup>43</sup> Varanini, *Il distretto veronese cit.*, p. 29; for the Trecento, see Varanini, *Vicenza nel Trecento cit.*, section 10.

<sup>44</sup> Zamperetti, *Piccoli principi cit.*, p. 93-109; Zamperetti, *Per una storia cit.*, p. 67-68; Zamperetti, *Poteri locali cit.*, p. 74-76; Zamperetti, *Aspetti cit.*, p. 506.

<sup>45</sup> *Ibidem*, p. 503-507 (quote on p. 503); Zamperetti, *Piccoli principi cit.*, p. 104-108.



engagement in the management of the countryside – that advantage was potential only. Construction and maintenance of villas still required that those elite were possessed of the desire to build and live at least occasionally in rural areas. That, in turn, required that their bonds with the land be of an affectionate, appreciative sort, not simply confined to economic advantage.

Many Vicentine patricians were habitually resident in the countryside, though they remained active in urban councils and urban corporations. This had been the case in the Trecento<sup>46</sup>; it continued to be the case in the Quattrocento. Manfredo Repeta, to take one unusually well-documented example, was a member of the urban College of Notaries, sat on the urban council, and was subject to the urban *estimo*, but it is evident from his *catasto* that he was habitually resident out in Campiglia<sup>47</sup>. The Veronese memorialist Bartolomeo dal Bovo was taxed with the urban citizens, and indeed was frequently resident in the city, but he reserved his most passionate architectural commentary for the decorations of his house in his village of origin. As he once remarked when visiting a friend just outside the village of Cavaion, «Me piace a vedere che anch'altri piazza di fabricar de le cose como piace ancora a mi», to which the friend replied «avì fatto anchora voi qualche cosa de bello? So che ve deletati de fabricar, è vero», which prompted dal Bovo's narration of his efforts to rebuild the church in the hamlet of Bovo<sup>48</sup>. Such men took to heart Benedetto Cotrugli's maxim that the function of the villa was both «utilità et redito» and «delectation et refrigerio»<sup>49</sup>.

Venetians too found delight – and refuge – in the countryside. Pietro Bembo wrote a long description of the garden in his *villetta*, with its *pergola* and «bello and grande padiglione» of ivy; Marcantonio Sabellico wrote his *Rerum venetarum* while staying in a villa near Verona<sup>50</sup>. Already in the early Quattrocento several dozen Venetian-owned properties in the territories of Padua and Treviso were described as «pro suo uso» – evidently the proprietors and their families were regularly resident on the land<sup>51</sup>. By the time that tax returns cataloguing real estate holdings become systematic, in 1514, such references have become endemic. Vettor Ziliolo, for example, held a stone house in Campolongo «per mio uxo per i tempi de morbo»; fellow citizens Lorenzo Franceschi and Gasparo dalla Vedova preferred instead to mention their gardens, suggesting that solace rather than safety motivated their stays in the country<sup>52</sup>.

<sup>46</sup> Varanini, *Istituzioni* cit., p. 182.

<sup>47</sup> *Family Memoirs from Verona and Vicenza* cit., p. 101-133.

<sup>48</sup> Verona, Biblioteca Civica, ms 827, f. 54r.

<sup>49</sup> Cited in R. Mueller, *Prefazione* to Mometto, *Azienda agricola* cit., p. VII.

<sup>50</sup> Puppi, *Villa garden* cit., p. 90; N. Davidson, *As much for its culture as for its arms: the cultural relations of Venice and its dependent cities, 1400-1700*, in *Mediterranean Urban Culture 1400-1700*, ed. A. Cowan, Exeter 2000, p. 203.

<sup>51</sup> Varanini, *Proprietà* cit., p. 820-822, 828.

<sup>52</sup> ASVen, Dieci Savi sopra le decime a Rialto, Condizione di decima 14, filza 13; ivi, 38, filza 32; ivi, 79, filza 46.

Vicentine and Veronese literature, from the most refined humanistic work down to the relatively humble, is suffused with a strong consciousness of the richness and pleasures of the countryside. To take an example nearly at random, Galassio Vicentino (or Cavazzoli)'s *Ad posteros*, a praise of the city, opens with a brief section on the urban center, then embarks on an extended treatment of the «*populosus ager pastoribus aequae colonis/foecundans cultus nobilitate sui*», waxing enthusiastic on the richness of the countryside and its many products (especially wool, silk, wine, sheep, marble, porphyry, and alabaster)<sup>53</sup>. So too the anonymous poet who addressed a series of poems to the da Porto family, praising Vicenza and its greatest writers, declared that it was in the pleasant countryside, sleeping among the many-colored flowers, that he was inspired by the muses<sup>54</sup>. Bartolomeo Pagello's *De laudibus Vicentiae* is saturated with notes on the spectacular features of the Vicentine landscape; indeed, he spent relatively little time on the city itself. The series of poems in which Pagello proclaimed his love for the fair Pamphila is largely framed with imagery of the rich and fertile countryside, opening with a loving description of his country house, to which he had invited her<sup>55</sup>. In his letters, Pagello wrote of his own villa as «*opportuna all'onesto piacere*» and detailed the plants of its «*ameno giardino*» at length<sup>56</sup>. Battista Pagliarini's rich compendium of history and geography is far less accomplished than these works in literary terms, but he was no less smitten with Vicenza's landscape. About two-thirds of his *De ambitu et situ urbis et agri ubertate* is concerned with the countryside – town foundations, wars, how a town came under Vicentine rule, name origins and unusual physical features. His conclusion: «*Perpaucae quidem in Italia civitates sunt cum quibus haec nostra civitas de agrorum ubertate, de magnificiis aedibus, potentibusque familiis certare non possit*»<sup>57</sup>.

Verona offers similar writings – rather more, in fact, since the city boasted a more robust literary culture than did Vicenza. The substance, however, is much the same in both cities, with writers drawing from familiar traditions – the civic laud; the bucolic, pastoral and Petrarchan strains – that addressed issues of country life. One anonymous praise of Verona is entirely similar to that of Pagliarini, listing the towns and regions in the countryside, and offering an account of the rich produce from the land<sup>58</sup>. Francesco Corno da

<sup>53</sup> Galassio Vicentino, *Theseidos libri tres, praemisso carmine ad posteros de laudibus et commodis urbis et agri Vicentini*, ed. B. Bressan, Vicenza 1874, lines 43–84.

<sup>54</sup> C. Salmistraro, *I carmi umanistici sulla famiglia Da Porto nel codice Bertoliano G.24.2.39*, in «*Odeo olimpico*», 17–18 (1981–1982), poem I. See also poem XI, with description of an imaginary, beautiful plain with forests and pools.

<sup>55</sup> Bartolomeo Pagello, *Poesie inedite di Bartolomeo Pagello celebre umanista*, ed. F. Zordan, Tortona, 1894, Book III (*De laudibus Vicentiae*), Book I (elegies II–III).

<sup>56</sup> Quoted in Puppi, *Villa garden* cit., p. 89–90.

<sup>57</sup> Pagliarini, *Cronicae* cit., p. 187–198 (city), 198–217 (countryside; quote on p. 215).

<sup>58</sup> U. Marchesini, *Una poesia del secolo XV in lode di Verona*, in «*Nuovo archivio veneto*», 5 (1895), t. 10, p. 313–323.

Soncino's *Fioretto* is even more oriented to the landscape, opening with a description of the countryside – beauty, boundaries, products, fortifications, natural features – and only later turning to the sites of the city<sup>59</sup>. Giorgio Sommariva's 1478 *relazione* is a government report, not a piece of literature, but his survey of the countryside was equally enthusiastic. He listed the twenty-three vicariates and two *podestarie* under the jurisdiction of the commune of Verona, and the sixty vicariates under the control of individuals; enumerated the population of humans, cattle and sheep; listed incomes and harvests and recent cloth production – all quite dry, certainly, but nonetheless just as closely attuned to the nuances of the countryside as were more flowery works<sup>60</sup>. Zagata's *Cronica* too has a profound sense of place: what route a ruler followed, where he crossed a river, where an army camped, precisely where a battle took place. He listed each village and hamlet fought over, and provided kilometer-by-kilometer narratives of armies' progresses<sup>61</sup>.

On the upper end of the literary scale, Veronese humanists equally celebrated the landscape around them. Guarino Guarini wrote fondly of the site of and view from his house at Castelrotto, where he spent much time, and wrote as well a poem on Lake Garda. He may have been the author of a *Sequentia rusticorum*; his delight in rural *idyll* was tempered by fear of rustics' violence. Antonio Brognoligo's bucolic verses have survived; Antonio Partenio da Lazise's eclogues have not. Antonio Cipolla lived extensively in Belfiore di Porcile, and wrote an extended poem on his work of land reclamation; he engaged with a literary exchange with Girolamo Brognoligo concerning the villa. Andrea Banda has left us descriptions of the baths at Caldiero. Ludovico Merchenti's poem *Benacus* was largely concerned with a naval battle on Lake Garda, but he was careful to note the features of the towns along its shores<sup>62</sup>. Specialists in literature could undoubtedly expand this list considerably, but the point has been made: literate Veronesi were closely in touch with, and engaged with, the land around them.

Venetians were less habitual writers about landscape, though they certainly had their moments – Ermolao Barbaro's description of a tour of the Veronese countryside, for example, or Bembo's description of the garden at Santa Maria de Non. Several of the dialogues of Bembo's *Asolani* were set in gardens, and there is an extended passage where the protagonist Lavinello

<sup>59</sup> Francesco Corna da Soncino, *Fioretto de le antiche croniche de Verona e de tutti i soi confini e de le reliquie che se trovano dentro in ditta citade*, ed. G.P. Marchi and P. Brugnoli, Verona 1980, stanze 28-60.

<sup>60</sup> C. Cipolla, *La relazione di Giorgio Sommariva sullo stato di Verona e del Veronese (1478)*, in «Nuovo archivio veneto», 3 (1893), t. 6, esp. p. 211-214.

<sup>61</sup> Pier Zagata, *Cronica di Verona, Verona 1745-1749* (ed. anast. Bologna 1967), vols. I, II (p. 1-83).

<sup>62</sup> R. Avesani, *Verona nel Quattrocento. La civiltà delle lettere*, in *Verona e il suo territorio*, IV, 2, Verona 1984, p. 36-38, 105, 216, 229, 236-239; C. Perpolli, *L'«Actio Panthea» e l'umanesimo veronese*, in «Atti e memorie dell'Accademia d'agricoltura scienze e lettere di Verona», ser. IV, 16 (1916), esp. p. 81-82; see also G. Zalin, *Economia agraria e insediamento di villa tra medioevo e Rinascimento*, in *La villa nel Veronese* cit., p. 62-65; L. Puppi, *Funzione e originalità tipologica delle ville veronesi*, *ibidem*, p. 92-97, 102; G.P. Marchi, *Letterati in villa*, *ibidem*, p. 231-237.

wanders out into the countryside and meets an old hermit<sup>63</sup>. Somewhat later, Alvise Cornaro wrote on agriculture and hydrology; late in life, after many years in a villa near Este, he wrote *La vita sobria* celebrating «the joys of *la santa agricoltura* and villa life»<sup>64</sup>. In a very different genre, the memoir of the Dardani family has little to say about the Venetian career of its greatest representative, the grand chancellor Alvise Dardani; instead, most of the memoir is given over to copies of his dispatches during two missions on the mainland, in the mountains north of Belluno (1500) and in the hamlets around Mirano (1509)<sup>65</sup>.

It is true that, in this regard the Venetian chorus was not entirely unanimous. Priuli, for example, lamented not only that investment in the *terraferma* had drained Venice of riches, but that living on the *terraferma* had sapped Venetians' vitality. In 1513 doge Leonardo Loredan held that God's wrath at Venetians had arisen from disgust at the «pompe», specifically carriages and «lite per confini» – characteristics of landed living – that were not fit for gentlemen<sup>66</sup>. But Priuli was famously grumpy with regard to the *terraferma*, and Loredan was speaking at the period of extraordinary recrimination that followed the disastrous loss of the mainland state in 1509. We should not dismiss their testimony, but no more should we regard it as representative of Venetians' views. Even Priuli acknowledged that every Venetian who had the means – *nobelle* or *populare* alike – had bought a house in the Paduan or Trevisan countryside<sup>67</sup>.

Another possible index of Venetians' love for landscape is, admittedly, problematic. Is it sheer coincidence that Venetian publishers were far and away the European leaders in the production of books that explored and celebrated rural life? True, their printing presses produced work of every conceivable type; and their printers produced for a European-wide market, not just for fellow citizens. But Venetians bought books, too; and it is at least suggestive that the city with the least landscape in Europe was so avid in generating volumes about the countryside. The ancients were heavily represented: three editions of Theocritus before 1501, three editions of Virgil's *Eclogues* and *Georgics* before 1519, eleven editions of Ovid before 1520. The moderns were represented as well, with Pietro de' Crescenzi's *Ruralia commoda* published in Venice at least four times before 1520, Sannazaro's *Arcadia* receiving a first edition there in 1504 and Bembo's *Asolani* receiving a first edition the following year<sup>68</sup>.

<sup>63</sup> Avesani, *Verona nel Quattrocento* cit., p. 111; Puppi, *Villa garden* cit., p. 90; D. Rosand, *Giorgione, Venice, and the Pastoral Vision*, in R.C. Cafritz, L. Gowing, D. Rosand, *Places of Delight: The Pastoral Landscape*, Washington 1988, p. 53-54.

<sup>64</sup> Cosgrove, *Palladian Landscape* cit., p. 161-162.

<sup>65</sup> *Family Memoirs from Venice* cit., p. 109-228.

<sup>66</sup> G. Cozzi, *Ambiente veneziano, ambiente veneto*, in *L'uomo e il suo ambiente*, ed. S. Rosso-Mazzinghi, Firenze 1973, p. 109-111.

<sup>67</sup> Girolamo Priuli, *I diarii*, ed. A. Segre and R. Cessi, RIS<sup>2</sup> XXIV/3, Città di Castello and Bologna 1912-1936, book IV, p. 50.

<sup>68</sup> Tabulation from WorldCat online bibliographic search.

Paduan literature is far less inclined to extol the delights or the riches of the countryside. For one thing, «mancano praticamente del tutto cronache ed altri prodotti della memorialistica privata» in the Quattrocento<sup>69</sup>. Padua, that is to say, offers virtually nothing comparable to the musings of a memorialist such as Manfredo Repeta or Bartolomeo dal Bovo on their estates. That fact alone might indicate lesser levels of *villeggiatura* in Padua, less interest in conveying rural pleasures to posterity, greater detachment from the countryside.

To take one example, Giovan Francesco Capodilista in the mid-1430s assembled the prosopography of his own family, and had it wonderfully decorated. For his bygone ancestors, predictably, Capodilista invariably mentioned martial qualities. As he came closer to his own times, however, he recalled members of the family as professors, prelates and court functionaries, and he gave a separate listing of the *doctores vel litterati*, specifying their university degrees. That is to say, the earlier feudal-chivalric boasts disappear. He applauded recent heroes for their learning and courtly accomplishments: the family now claimed nobility of the robe, not of the sword. Furthermore, Capodilista praised the more recent for purely urban skills and professions, particularly the law and the church. He found the feudal past worthy of mention, but he located present-day eminence purely in the city<sup>70</sup>.

To some degree this reflects the simple reality of the situation. In previous centuries Paduan worthies had owned land extensively, and often resided on their estates<sup>71</sup>; in the Quattrocento they continued to own land, but on a much reduced scale, and showed a marked propensity for careers as university teachers and prelates<sup>72</sup>. Their primary engagements were in the city. This in turn appears to have produced a change in *mentalité*, as least as reflected in literature. A civic laud of 1435, for example, opens with a commonplace praise of the city's site, set among high mountains – but the remainder of the piece is decidedly urban. The anonymous author's contrast between decrepitude under Carrara tyranny and the flourishing state of the city under Venetian dominion takes place almost exclusively within the city walls. There is none of the vaunting of a rich countryside and flourishing agriculture that is to be found in the work of Battista Pagliarini or Giorgio Sommariva<sup>73</sup>.

<sup>69</sup> D. Gallo, *Predicatori francescani nella cattedrale di Padova durante il Quattrocento*, in *Predicazione francescana e società veneta nel Quattrocento: committenza, ascolto, ricezione*, Padova 1995, p. 148.

<sup>70</sup> Giovan Francesco Capodilista, *De viris illustribus familiae Transelgardorum Forzate et Capitis Listae*, ed. M. Selmi and M. Blason Berton, Roma 1972, ff. 6v-32r (ancestors), 33r and 34r (*doctores vel litterati*).

<sup>71</sup> S. Collodo, *Credito, movimento della proprietà fondiaria e selezione sociale a Padova nel Trecento*, in «Archivio storico italiano», 141(1983), 515, p. 3-72; also in S. Collodo, *Una società in trasformazione. Padova tra XI e XV secolo*, Padova 1990, ch. VII, and see also ch. IX.

<sup>72</sup> G. De Sandre, *Dottori, università, comune a Padova nel Quattrocento*, in «Quaderni per la storia dell'Università di Padova», 1 (1968), p. 15-47. For an example of a landowning family whose primary careers lay in the professoriate, see R. Marconato, *La famiglia Polcastro (sec. XV-XIX). Personaggi, vicende e luoghi di storia padovana*, Camposampiero (Padova) 1999, esp. chs. 2-3.

<sup>73</sup> L. Bertalot, *Padua unter venetianischer Herrschaft 1435*, in «Quellen und Forschungen aus

The greatest of the Paduan civic lauds is unquestionably the *Libellus de magnificis ornamentis regie civitatis Padue* of Michele Savonarola. It too supports the notion of Paduans' detachment from the land. The first book deals with ecclesiastical institutions, nearly all in the city; Savonarola constantly refers to the *urbs* of Padua, with concentration on the city core alone, and not to the *civitas*, which would connote territoriality. The second book, on temporal and mundane things, discusses only the palace of the bishop and some of the public buildings of the city: villas and rural buildings are outside his scope of interest altogether. In discussing waterways, he begins to treat communication routes with distant cities and with the three *castra* of the province (Monselice, Este, Montagnana), but this is only a brief digression. Only at the very end of the work is there discussion of the countryside, with brief mention of the Euganean hills and their products and baths<sup>74</sup>. This final section, however, reads like something of an afterthought; Savonarola certainly put very little effort into it. In contrast with its counterparts in Vicenza and Verona, that is, Savonarola's *Libellus* is a thoroughly urban work. He was no less fervently patriotic than his colleagues to the west, but for him the glory of Padua was measured strictly by the institutions, citizens and monuments of the city itself<sup>75</sup>.

italienischen Archiven und Bibliotheken», 24 (1932-1933), p. 188-206.

<sup>74</sup> Michele Savonarola, *Libellus de magnificis ornamentis regie civitatis Padue*, ed. A. Segarizzi, RIS<sup>2</sup> XXIV/14-15, Città di Castello 1902, p. 56-58.

<sup>75</sup> The sole Trevisan civic laud of which I am aware intends not so much to praise the countryside as to celebrate Venetian conquest: A. Serena, *La cultura umanistica a Treviso nel secolo decimoquinto*, Venezia 1912 (R. Deputazione veneta di storia patria, Miscellanea di storia veneta, ser. III, 3), p. 231-233.

## ***Pisa's «long-arm» gabella dotis (1420-1525): issues, cases, legal opinions\****

by Julius Kirshner

Husbands in late medieval and early modern Tuscany were obligated to pay a contract tax (*gabella dotis*) on the amount of dowry they acknowledged and legally guaranteed in a standard legal instrument called *confessio dotis*<sup>1</sup>. Questions arose when a citizen contracted marriage, concluded a *confessio dotis*, and paid the contract tax in a foreign city, usually where he maintained separate legal domicile, situated beyond the territorial jurisdiction of his native city. Jurisdiction (*iurisdictio*), a treelike construct with many branches, is used in this essay narrowly to refer to the robust political and judicial powers that towns, cities, or principalities could legitimately assert over persons and properties located within their territories<sup>2</sup>. In practice, these powers

\* I am indebted to Professor Christine Meek for her generosity in sharing with me her archival findings on Giovanni Maggiolini and Agapito dell'Agnello, Professor Michele Luzzati for archival references and his timely and detailed answers to my questions concerning the persons and issues with which I deal in my essay, Susanne Lepsius and Rodolfo Savelli for checking references in Lucca and Genoa, respectively, and Osvaldo Cavallar and Robert Fredona for their constructive comments. I have employed the following abbreviations: ASF (Archivio di Stato di Firenze) and ASPi (Archivio di Stato di Pisa). The Florentine new year began on 25 March. For the sake of readability, all dates between 1 January and 25 March cited in the text have been modernized. Similarly, I have modernized all dates in the text originally recorded in Pisan style (*more Pisano*), which was one year ahead of modern (and Florentine) usage for the period 25 March-31 December. A preliminary version of my paper was presented at the Forty-third International Congress of Medieval Studies, Kalamazoo, Michigan, May 8-11, 2008.

<sup>1</sup> On *confessio dotis*, see J. Kirshner, *The Morning After: Collecting the Monte Dowry in Renaissance Florence*, in *From Florence to the Mediterranean and Beyond: Essays in Honour of Anthony Molho*, eds. D. Ramada, E.R. Dursteler, J. Kirshner, F. Trivellato, Florence 2009, pp. 42-51.

<sup>2</sup> See P. Costa's *Iurisdictio. Semantica del potere politico nella repubblica medievale (1100-1433)*, Milano 1969 (reprinted 2002). The reprint of this classic work includes an illuminating introduction by Bartolomé Clavero. See also P. Grossi, *L'ordine giuridico medievale*, Roma-Bari 2001, p. 95. On the relationship between jurisdiction and the making of territorial boundaries, see P. Marchetti, *«De iure finium»: Diritto e confini tra tardo medioevo ed età moderna*, Milano 2001. On the organization of territorial states in central and northern Italy, with a focus on the strategies and material techniques mediating jurisdictional powers, see G. Chittolini's influential *La formazione dello Stato regionale e le istituzioni del contado. Secoli XIV e XV*, Torino 1979. For an overview, see A.K. Isaacs, *Changing Layers of Jurisdiction: Northern and Central Italian States in the Late Middle Ages and Early Modern Times*, in *Communities in European History: Representations, Jurisdictions, Conflicts*, ed. J. Pan-Montogo and F. Pederson, Pisa 2007, pp. 133-150.

were asserted to compel citizens and subjects to perform acts, such as the payment of the *gabella dotis*, which they otherwise would not perform voluntarily. When citizens residing beyond the territorial jurisdiction of their native cities protested that they were not liable to pay the *gabella dotis*, claiming that the laws authorizing the *gabella* did not apply to them, the officials routinely turned to jurists for impartial expert advice and determinate solutions. This procedure was employed in multijurisdictional disputes that were not directly resolvable by administrative fiat or a preset application of local law (*ius proprium*)<sup>3</sup>. In constructing their arguments, jurists relied on the transterritorial norms of the *ius commune*, a gargantuan body of learned Roman civil and canon law filtered through the varied interpretations of generations of jurists, many of whom were university professors<sup>4</sup>.

My essay focuses on three multijurisdictional disputes over the *gabella dotis* that occurred in the orbit of Pisa under Florentine rule and the legal opinions (*consilia*) they engendered. The *consilia* that I discuss represent merely a fraction of the published and unpublished *consilia* that deserve to be studied for the valuable perspectives they furnish on the legal conundrums of individual Pisan citizens and the governance of their city during the long first century of Florence's domination<sup>5</sup>.

To avoid the facile impression that these cases and opinions marked the beginning of a natural and orderly progression toward modern institutional arrangements and concepts, I have avoided employing postmedieval terms such as «private international law», «comity», «conflict of laws», «extraterritoriality», «sovereignty», and the like. It is worth recalling that the mature «choice-of-law doctrine» – a fundamental feature of contemporary international law that gives parties the discretion to freely choose the law of a particular country to govern their contracts – was developed in the second half of the nineteenth century by the Risorgimento Italian jurist, Pasquale Stanislao Mancini<sup>6</sup>. To be blunt, in premodern Italy party autonomy regard-

<sup>3</sup> E. Lorenz, *Das Dotalstatut in der italienischen Zivilrechtslehre des 13. bis 16. Jahrhunderts*, Graz 1965; J. Kirshner, *Dowry, Domicile, and Citizenship in Late Medieval Florence*, in *Florence and Beyond: Culture, Society and Politics in Renaissance Italy. Essays in Honour of John M. Najemy*, ed. D.S. Peterson and D.E. Bornstein, Toronto 2008, pp. 257-271.

<sup>4</sup> For a balanced sketch of the *ius commune*, see M. Caravale, *Alle origini del diritto europeo. Ius commune, droit commun, common law nella dottrina giuridica della prima età moderna*, Bologna 2005; E. Conte, *Diritto comune. Storia e storiografia di un sistema dinamico*, Bologna 2009; on the intertwined relationship between the *ius commune* and the statutes of Pisa during the period of Florentine domination, see R. Celli, *Studi sui sistemi normativi delle democrazie comunali*, Firenze 1976, I, pp. 133-144.

<sup>5</sup> For a first-rate example of such a study, see O. Cavallar, *Francesco Guicciardini and the "Pisan Crisis": Logic and Discourses*, in «Journal of Modern History», 65 (1993), pp. 245-285.

<sup>6</sup> E. Jayme, *Pasquale Stanislao Mancini: Internationales Privatrecht zwischen Risorgimento und praktischer Jurisprudenz*, Ebelsbach 1980. International law scholars traditionally credit Charles Dumoulin (1500-1566), advocate at the Parlement of Paris, with hatching in embryonic form the concept of party autonomy, in reaction to Bartolus of Sassoferrato and his followers, who had privileged the *lex loci contractus*. See F. Gamillscheg, *Der Einfluß Dumoulin's auf die Entwicklung des Kollisionsrechts*, Berlin 1955.



ing the payment of contract taxes, including the *gabella dotis*, was contemplated neither by the drafters of local statutory compilations nor *ius commune* jurists.

The approach I have taken meshes with Giorgio Chittolini's antiteleological view «that terms and concepts need to be historically contextualized within a specific political, juridical and institutional language»<sup>7</sup>. That said, the payment of the contract tax in each case intersected with issues of dual citizenship, legal domicile, double taxation, and jurisdictional pluralism, raising a fundamental question of whether citizens of one locality who had domicile and executed contracts in another locality with independent jurisdiction could be compelled to pay contract taxes in their native cities. Today, disputes involving cross-border double taxation are adjudicated under the terms set forth in the European Community Treaty on direct taxation, as well as bilateral conventions for the avoidance of double taxation and fiscal evasion that Italy has concluded with other states: for instance, Australia (1977), the United States (1985), and Israel (1995)<sup>8</sup>.

1. The protagonist-husband of the first case, Agapito di Matteo di ser Cegna dell'Agnello, was a merchant and citizen of Pisa. In 1407, he and his brother Jacopo were residing in hospitable Lucca, along with other Pisans forced to leave their native city in the wake of Florence's brutal and liberty-destroying conquest in 1406<sup>9</sup>. Condemned as rebels by Pisa's new masters, the brothers were exiled to Genoa, where they were still residing at the time of the dispute in 1423. Little is known about Agapito's activities after 1407, but evidence from the Corte dei Mercanti of Lucca reveals that he continued to have commercial dealings in Lucca<sup>10</sup>. Around 1411, he married Tommasa, a daughter of Giovanni di Piero Maggiolini, a silk merchant; Giovanni and his nephews, as indicated by the Catasto of 1428-1429, were Pisa's richest citizens. Their gross taxable wealth was estimated at 23,080 florins, quite impressive, as the Maggiolini were among the most heavily taxed Pisans under Florence's dom-

<sup>7</sup> G. Chittolini, *A Comment*, in *Florentine Tuscany: Structures and Practices of Power*, ed. W.J. Connell and A. Zorzi, Cambridge 2000, p. 342.

<sup>8</sup> See P. Valente's comprehensive manual, *Convenzioni internazionali contro le doppie imposizioni*, Milano 2008; and G.W. Kofler and R. Mason, *Double Taxation: A European "Switch in Time"*, in «Columbia Journal of European Law», 14 (2008/2009), pp. 63-97.

<sup>9</sup> G. Petralia, «Crisi» e emigrazione dei ceti eminenti a Pisa durante il primo dominio fiorentino: l'orizzonte cittadino e la ricerca di spazi esterni, in *I ceti dirigenti nella Toscana del Quattrocento*, Atti del V e VI Convegno del Comitato di studi sulla storia dei ceti dirigenti in Toscana, Firenze 10 e 11 dicembre 1982 e dicembre 1983, Impruneta 1987, p. 324, n. 124; G.O. Corazzini, *L'assedio di Pisa (1405-6). Scritti e documenti inediti*, Firenze 1885, p. 145. I have not been able to ascertain the relationship between Agapito's branch of the dell'Agnello and that of Giovanni dell'Agnello, who was elected doge of Pisa in 1364. On whom, see M. Tangheroni, *Dell'Agnello, Giovanni*, in *Dizionario biografico degli italiani*, 37, Roma 1989, pp. 47-55.

<sup>10</sup> Archivio di Stato di Lucca, Corte dei Mercanti 95 (Libro dei Sensali 1413), fols. 69r, 72r, 73r-v, 74r, 112r; Corte dei Mercanti 96 (Libro dei Sensali 1417), fol. 53r. I owe these references to the generosity of Professor Christine Meek.

ination<sup>11</sup>. The Maggiolini belonged to the anti-Florentine Raspanti faction, so it is not surprising that Giovanni spent the years immediately after Florence's conquest of Pisa as a political exile in Lucca. In 1413, he was exonerated from charges of fomenting rebellion against Florence<sup>12</sup>. A leading member of the Pisan colony in Lucca, he counted among the forty-three Pisans who acquired Lucchese citizenship in this period<sup>13</sup>.

Agapito married Tommasa in Lucca, where he received and legally guaranteed Tommasa's dowry and consummated the marriage. The *confessio dotis* was drawn up by a Pisan notary, ser Eustachio di ser Angelo Montefoscoli, also a newly created citizen and resident of Lucca<sup>14</sup>. Ten years into the marriage Tommasa died in Genoa, where the couple was then residing. Soon after, Agapito took a second wife, Caterina, a daughter of Luca Spinola and member of one of Genoa's topmost families. The couple married in Genoa, where a local notary executed the *confessio* for Caterina's dowry. We are informed that the contract taxes on both Caterina's and Tommasa's dowries were paid in Genoa.

At this juncture, the Florentine officials (*provveditori*) in Pisa in charge of managing and collecting taxes on all contracts concluded by Pisan citizens demanded that Agapito pay the contract taxes on both dowries at the rate of 2 *denari* per each *lira*<sup>15</sup>. Under Pisa's laws, citizens who concluded dowry

<sup>11</sup> B. Casini, *Patrimonio e consumi di Giovanni Maggiolini mercante pisano nel 1428*, in «Economia e storia», 7 (1960), pp. 37-62; and B. Casini, *Il Catasto di Pisa del 1428-29*, Pisa 1964, pp. 373-374. Petralia, «Crisi», p. 330 argues persuasively that the total value of Maggiolini assets was nearer to 30,000 florins. On the family's origins, see also E. Cristiani, *Nobiltà e popolo nel comune di Pisa: dalle origini del podestariato alla signoria dei Donoratico*, Napoli 1962, pp. 50, 352, 463-464. On Maggiolini commercial activities in Lucca and Milan, see G.P.G. Scharf, *Amor di patria e interessi commerciali: i Maggiolini da Pisa a Milano nel Quattrocento*, in «Studi storici», 35 (1994), pp. 943-976.

<sup>12</sup> ASF, Pareri dei Savi, 3, fols. 421r-428r. On 31 December 1412, Ridolfo Peruzzi, the Florentine *capitano di custodia* of Pisa, ordered Giovanni di Piero Maggiolini to appear in court to answer charges of fomenting rebellion, mainly by speaking with the condemned rebel Nofri del Moscha, also of Pisa. Maggiolini ignored the summons, was found contumacious, and was confined to Venice, Siena, or Florence for three years. In July 1413 Maggiolini sought and received cancellation of his sentence from the *camera del comune* in Florence. The *camera* made a series of inquiries into whether the various statutes on banishment enacted in the 1370s, 1380s, and 1390s could be enforced against Maggiolini. Six jurists – Filippo Corsini, Stefano di Giovanni Bonaccorsi, Nello da San Gimignano, Torello Torelli, Alessandro Bencivenni, and Domenico Sermini – were asked to advise. They were unanimous in supporting the cancellation of the sentence on the grounds of *ex carentia iurisdictionis*, namely, that Florentine laws and statutes did not authorize the *capitano del popolo* of Florence, let alone a lesser official, the *capitano di custodia* of Pisa, to confine someone to a specific locality.

<sup>13</sup> Giovanni di Piero, his son Baldassarre, and five nephews were awarded Lucchese citizenship on 21 October 1424. See R. Romiti, *Le concessioni del privilegio della cittadinanza a Lucca dal 1369 al 1448*, tesi di laurea, relatore prof. Michele Luzzati, a. a. 1983-1984, Facoltà di Lettere e Filosofia, Università di Pisa, pp. 182-183, n. 168. I am grateful to Professor Luzzati for permitting me to consult Romiti's thesis. The decree granting citizenship is preserved in the Archivio di Stato of Lucca, Comune, Governo di Paolo Guinigi, Decreti 2, c. 678r.

<sup>14</sup> I have been unable to locate the *confessio dotis* in Lucca, Pisa, or Florence. As far as I can determine, ser Eustachio's registers appear to be lost.

<sup>15</sup> On the magistracies Florence established to administer Pisa, see G. Guidi, *Il governo della*

contracts within fifty miles of the city proper were liable for the contract tax<sup>16</sup>. Since the distance between Pisa and Lucca was less than fifty miles (today, around eleven miles, or seventeen kilometers), Pisan citizens, like Agapito, who concluded contracts in Lucca were subject to the tax. He also owed the tax on the dowry conveyed in his second marriage, the *proveditori* claimed, solely by virtue of his status as a Pisan citizen. This claim was alleged to be valid, notwithstanding that the marriage was performed in Genoa (today, around eighty-seven miles, or one hundred thirty-nine kilometers from Pisa) and that Agapito had already paid the contract tax in Genoa, his long-standing place of domicile<sup>17</sup>. In defense, Agapito countered that he was not liable for the contract tax on either dowry, because both his marriages had been performed outside Pisa's territorial jurisdiction, as had the contractual promises made by the brides' families to pay the dowries and the ensuing *confessiones dotium* in which he had guaranteed and assumed liability for the dowries he acknowledged having received.

The source of my summary description of the dispute is a manuscript in the Archivio di Stato of Florence, largely a collection of copies of the legal opinions of the distinguished jurist Nello di Giuliano Cetti of San Gimignano (1373-1430)<sup>18</sup>. In early April 1423, Nello, Urbano di Domenico da Cevoli, and

*città-repubblica di Firenze del primo Quattrocento*, III, *Il contado e distretto*, Firenze 1981, pp. 45-57, 172-175, 241-243.

<sup>16</sup> On the organization and extent of Pisa's territorial jurisdiction during the fifteenth century, see O. Banti, *Iacopo d'Appiano: economia, società e politica del comune di Pisa al suo tramonto (1392-1399)*, Pisa 1971, p. 125; and A. Potenti, *Uomini, villaggi, terreni: aspetti economici e demografici delle campagne pisane del Quattrocento*, Pisa 2002, pp. 27-40.

<sup>17</sup> Interestingly, unlike Giovanni Maggiolini, who, though residing in Lucca (his home away from home), remained subject to Pisa's jurisdiction and was included in the *Catasto* of 1428, Agapito dell'Agnello (assuming he was still alive) was not included in the *Catasto*, another sign that his ties to Pisa had become at best tenuous.

<sup>18</sup> ASF, Corporazioni Soppresse dal governo francese 98, n. 240, s.f., *Consilium XII* (hereafter cited as *Consilium XII*): «Agabitus de Agnello civis pisanus habitans ad presens Ianue et a duodecim annis citra, et tempore quo in dicta civitate habitabat duxit in uxorem dominam Tommasiam, filiam Iohannis Maggiolini civis pisani, iam sunt X anni vel circa, in civitate Lucana prope civitatem Pisarum minus quinquaginta miliaria. Diende mortua dicta domina Tommasia aliam duxit uxorem in civitate Ianue, que distat a civitate Pisarum per 150 (*sic*) miliaria, nomine Catherinam, filiam Luce Spinola, civis Ianue, iam sunt duo anni, et de predicta uxore habuit dotem et eas [*sic*] habuisse confessus fuit in civitate Lucana manu ser Stagii de Montefoscoli, civis et notarii pisani ac etiam civis lucani tunc habitantis in civitate Lucana, et similiter de 2<sup>a</sup> uxore fuit confessus dotem per cartam manu notarii ianuensis publici. De quibus quidem dotibus solute fuerunt gabelle in civitatibus prefatis et nulla soluta gabella de dictis dotibus comuni Florentie, set fuerunt solute gabelle in locis in quibus contracta fuerunt matrimonia. Modo officiales pro comuni Florentie deputati super exactione gabellarum in civitate Pisana volunt quod dictus Agabitus solvat in civitate Pisana gabellas dictarum dotum secundum formam statuti civitatis Pisane de quibus patet superius, pro eo quia dicitur quod dictus Agabitus est civis pisanus et dicta prima uxor est de civitate Pisana et contractus fuit celebratus per notarium pisanum et prope civitatem Pisarum per quinquaginta miliaria; et similiter dicendum de secunda uxore debere gabellam ratione civilitatis dicti Agabiti, non obstante quod gabelle fuerint solute in civitatibus prefatis. Dictus vero Agabitus respondet quod dicta gabella vel gabelle solvi non debent, cum nec promissio nec confessio dotis nec etiam matrimonium fuerit celebratum in loco subdito dictis statuentibus, et quia statutum simpliciter loquens intelligi debet ligare subditos in suo territorio et non extra territorium contraentis. Et <queritur> an de ambobus vel saltem altera ex dictis dotibus gabella debeatur nec ne».

a third, unidentified jurist were apparently asked by the Florentine *proveditori* in Pisa to submit impartial opinions called *consilia sapientis* on whether the Pisan laws applied to the dowries Agapito acknowledged in his *confessiones dotium*. At the time Nello was serving in Florence as government lawyer (*sapiens communis*). After having earned his doctorate in civil law at Bologna in 1398, he spent his entire career in Florence, where he was a successful and productive practitioner. His many *consilia*, including a cluster dealing with Pisan legal disputes, are largely preserved in manuscripts found in Florence and await being properly described, edited, and studied. Nello taught civil law at the city's *Studio* (1418-1422), held diverse administrative positions, notable among them, that of government lawyer, and served on diplomatic missions. *De bannitis*, which he completed in 1424 and later published in several printed editions, came to be admired as an astute treatment of political banishment<sup>19</sup>. Like other Florentine jurists at the time, Nello was versed as much in the ways of wielding power as he was in the manipulation of the rules of law.

Urbano da Cevoli was a minor Pisan jurist who received his doctorate in civil law at the University of Pisa between 1406 and 1411. At the time of the dispute he was serving as Pisa's official advocate (*advocatus Pisani communis*), and he was appointed a Pisan ambassador in 1427<sup>20</sup>. Few of the *consilia* that he undoubtedly penned in his capacity as a public and private advocate are extant.

Ordinarily, the public officials or representatives of the party requesting the opinions would have forwarded the consulting jurists a file of the *acta* – namely, copies of the relevant local laws, contracts of marriage, *confessiones dotium*, and attestation that Agapito had truly established legal domicile in Genoa. This file, which would have filled at least several folios offering precious details for clarifying significant ambiguities surrounding the dispute, was omitted from the manuscript containing copies of the three *consilia*. Despite a protracted search in Pisa and Florence, I have been unsuccessful in finding a copy of the «long-arm» law that made the contract tax applicable to

<sup>19</sup> On Nello, see L. Martines, *Lawyers and Statecraft in Renaissance Florence*, Princeton 1968, p. 499; A.M.C. Mooney, *The Legal Ban in Florentine Statutory Law and the De Bannitis of Nello da San Gimignano (1373-1430)*, doctoral dissertation, supervisor Professor Lauro Martines, 1976, University of California, Los Angeles; K. Park, *The Readers at the Florentine Studio According to Communal Records (1357-1380, 1413-1446)*, in «Rinascimento», 2<sup>nd</sup> ser., 20 (1980), pp. 276-277, 279. Nello was appointed *sapiens communis* seven times: in 1410, 1412, 1413, 1416, 1420, 1423, and 1424. See ASF, Tratte 576, fols. 70v, 71r, 72r-v, 73r-v.

<sup>20</sup> Urbano da Cevoli's name («domini Urbani de Cevoli») appears in the margin of the manuscript alongside the second submitted *consilium*. For his doctorate in civil law, see J. Davies, *The Studio Pisano under Florentine Domination, 1406-1472*, in «History of Universities», 16 (2000), pp. 212, 221, 235, n. 108. For Urbano's service as Pisa's advocate, see ASPi, Comune di Pisa, div. B. n. 80, fol. 24r, (29 July 1423), and as ambassador (fol. 12r, 3 September 1427; fol. 24r 15 November 1428). For references to his private activities in Pisa: see ASPi, Gabella dei contratti, n. 4, fol. 55r (7 June 1423), fol. 126r (14 February 1426), fol. 163r (24 December 1424), fol. 262v (12 August 1426), fol. 262r (9 May 1426), fol. 270r (12 September 1426); and Casini, *Il Catasto di Pisa*, pp. 90-91, n. 394.

Pisa's nonresident citizens within fifty miles of the city. Nor have I found the law that made the expansive contract tax specifically applicable to the dowries of Pisan citizens<sup>21</sup>. To my knowledge, these laws have not been cited by modern scholars. Our only sources for their existence are the *consilia* in which they were repeatedly cited<sup>22</sup>. In all likelihood, the laws were enacted under Florentine rule, figuring among a host of measures designed to extract maximum revenue from Pisa's citizens, wherever they resided<sup>23</sup>. Taxes harvested from Pisa were sent directly to Florence<sup>24</sup>. Lest we think Florentine fiscal policies were exceptional, recall that Pisan authorities increased the *gabella* imposed on foodstuffs and wine in Lucca when Pisa ruled Lucca, from 1342-1369<sup>25</sup>.

At first glance the two Pisan laws appear to constitute an astounding assertion of the city's jurisdiction over cities such as Lucca that were completely independent of Pisa. Before Florence's conquest in 1406, Pisan territorial jurisdiction had never extended fifty miles beyond the city proper. After the conquest, the jurisdiction that Pisa had formerly exercised over its *contado* (the city's surrounding area extending seven miles outward) and other dependencies had passed to Florence. Even without knowing the full text of the laws, it is fantastical to believe that Pisan lawmakers under Florentine domination suddenly, willfully, and untenably asserted legal jurisdiction over all the communities and lands within fifty miles of their city. If that were the case, the jurists would have debated and rejected the assertion, which failed to happen.

Rather, the law asserted that any Pisan citizen who entered into contracts within fifty miles of the city would have to pay a contract tax. Even so, the question is begged: on what legal grounds did lawmakers chose the fifty-mile territorial boundary, rather than, say, a hundred or hundred and fifty miles? My hunch is that fifty-mile boundary was inspired by canon law rules concerning the calculation of legal distance (*dieta legalis*). In Roman and canon law, *dieta legalis* referred to the distance one could walk in a day, which was pegged at twenty miles (*vicena milia*)<sup>26</sup>. The relevant rule was probably pro-

<sup>21</sup> Neither law is included in F. Bonaini's *Statuti inediti della città di Pisa dal XII al XIV secolo*, Firenze 1854-1870; or A. Era's *Statuti pisani inediti dal XIV al XVI secolo*, Sassari 1932.

<sup>22</sup> For the rubric of the contract tax, see Accolti's *consilium* at fol. 171r cited below (note 45): «nam in dictis reformationibus pisanis habetur in rubrica *De instrumentis ex quibus*, quod in civitate Pisana debet solvi gabella de instrumentis omnibus factis infra 50 miliaria a civitate Pisanum». The rubric of the law making the contract tax applicable to dowries is given in *Consilium XII: De dotibus mulierum et quicumque uxorem cepit et eam duxerit*.

<sup>23</sup> P. Silva, *Pisa sotto Firenze dal 1406 al 1433*, in «Studi storici», 35 (1909), pp. 133-183, 285-323, 529-579; G. Brucker, *The Civic World of Early Renaissance Florence*, Princeton 1977, pp. 202ff.; G. Petralia, *Fiscality, Politics and Dominion in Florentine Tuscany at the End of the Middle Ages*, in *Florentine Tuscany*, pp. 65-89.

<sup>24</sup> Petralia, *Fiscality*, p. 77. See also ASPI, *Gabella dei contratti*, n. 4, fol. 1r, where it was stated that the *gabella* is owed to the commune of Florence.

<sup>25</sup> C. Meek, *The Commune of Lucca under Pisan Rule, 1342-1369*, Cambridge (Mass.) 1980, pp. 81-83.

<sup>26</sup> D. 2. 11. 1, *Vicena milia*. For a penetrating analysis of this *lex*, see Baldus, *In primam digesti veteris partem*, I, Venetiae 1599, fols. 100v-100r.

vided by the canon *Praesenti* in Boniface VIII's *Liber sextus* (VI 3. 4. 34), which established that the benefices of members of the Roman *curia* who happened to die in neighboring places (*in locis vicinis*) – understood as two *dietae*, or forty miles, from the place where the pope and his *curia* were residing at the time – would revert to the papacy<sup>27</sup>. If my hunch is correct, the fifty-mile boundary was intended to encompass neighboring places, including jurisdictionally independent Lucca, roughly within two days' walking distance of Pisa. Conceivably, a territorially expansive contract tax had long been a feature of Pisan and Florentine fiscal practice, but evidence to support a prior history is lacking<sup>28</sup>.

Comparatively speaking, the geographic extent of Pisa's contract tax on dowries was actually limited. Citizen-husbands of Siena and Pistoia, at various times, were obligated to pay a contract tax on their dowries, wherever they were received, not only beyond the territorial jurisdictions of the two cities but even outside Italy<sup>29</sup>! Needless to say, the idea that Pisa, Siena, or Pistoia could effectively tax dowry or other contracts executed by their citizens *extra territorium* was wishful thinking. As is well known, the contract tax was based on information that the notary drafting the contract was required to transmit to the officials in charge of collecting *gabelle*<sup>30</sup>. This pro-

<sup>27</sup> See also Domenico da San Gimignano's introduction (*casus*) to c. *Praesenti*: «quod in isto casu illa loca appellamus vicina curiae Romanae, quae distat a loco ubi est Papa cum sua curia per duas dietas legales: hoc est per xx leucas, nam dieta in iure accipitur pro decem leucis, l. Vicena milia, ff. de cautionibus»; *Liber sextus decretalium D. Bonifacii VIII*, Lugduni 1584, col. 440. For other references to *dietae duae*, see also E. von Otenthal, *Regulae cancellariae apostolicae. Die päpstlichen Kanzleiregeln von Johannes XXII bis Nikolaus V*, Innsbruck 1888 (reprint Aalen 1968), *ad indicem*; and A. Meyer, *Zürich und Rom. Ordentliche Kollatur und päpstliche Provisionen am Frau- und Grossmünster 1316-1523*, Rom 1986, p. 34.

<sup>28</sup> In Florentine statutes and laws, a distance of fifty to sixty miles was sometimes used to mark the city's nominal outer territorial boundary encompassing communities under its control or vulnerable to its power. Thus, to qualify for appointment to the office of *podestà* in Florence around 1400, the candidate had to come from a foreign place, meaning at least sixty miles from the city. See Guidi, *Il governo della città-repubblica di Firenze*, II, p. 158. Again, a monetary commission was appointed in 1371 to curb the minting of debased coinage anywhere within fifty miles of the city. See C.M. de La Roncière, *Prix et salaires à Florence au XIV<sup>e</sup> siècle (1280-1380)*, Rome 1982, p. 498.

<sup>29</sup> See W.M. Bowsky, *The Finance of the Commune of Siena, 1287-1355*, Oxford 1970, p. 153. Bowsky's informative discussion fails to raise and address the question of the difficulties that undoubtedly confronted Siennese tax officials attempting to track and tax contracts made by «every husband of the city, contado and district of Siena», even if the marriage took place outside Siennese jurisdiction. I have not found the law enacted by Pistoia that made its *gabella dotis* enforceable anywhere in the world. It was, however, discussed in a *consilium* attributed to the Florentine jurist Agnolo Niccolini, but it is not clear whether it was Agnolo di Matteo (1473-1542) or Agnolo di Carlo (1474-1509), both jurists. The *consilium* is in ASF, Corporazioni Soppresse dal governo francese 98, n. 252, fol. 172r: «Preterea et tertio respondeo quod licet statutum simpliciter et indistincte disponat quod in quacunque parte mundi contractus celebratus sit, debet solvi gabella in civitate Pistorii, tamen tale statutum intelligendum est quando in ea parte mundi celebratur dictus contractus in qua nulla gabella de tali contractu solvebatur, ut in plerisque partibus mundi existit». Niccolini's *consilium*, with variants, was published in Bartholomeus Socinus, *Prima [-secunda] pars consiliorum Mariani et Bartholomei de Socinis senensium*, II, Lugduni 1546, fols. 167r-168r, cons. 302.

<sup>30</sup> ASPI, Gabella dei contratti, n. 4 (1423-1427), fol. 1r: «et cedule dictorum contractuum qui ad dictam gabellam erunt transmissae tam per notarios pisanos etiam per alios quoscunque notarios».

cedure worked reasonably well when a city had leverage over the notary who was subject to its jurisdiction and licensed to work there. On the other hand, the records of Pisa's *gabelle dei contratti* that I have examined fail to confirm that the officials in Pisa regularly received information from foreign notaries or third parties on contracts concluded by Pisan citizens in independent jurisdictions<sup>31</sup>. The primary effect of Pisa's long-arm *gabella dotis* was to authorize its tax officials to collect the *gabella dotis* from citizens should they return to the city after having received a dowry within fifty miles of Pisa, even if in an independent jurisdiction.

The hypervigilant Florentine *provveditori* in charge of collecting *gabelle* were aware of the impediments in tracking dowry contracts made within Florence's own considerable territory, to say nothing of those made outside it<sup>32</sup>. They recognized that Pisan citizens like Agapito dell'Agnello, having already paid the contract tax in a foreign territorial jurisdiction, would have had zero incentive to comply with Pisan law. The lack of timely information about the dowries, plus Agapito's understandable aversion to paying the contract tax twice, helps explain the long delay in attempting to collect the tax. My guess is that a Pisan citizen living in Genoa, with ties to the Florentine regime in Pisa, informed the authorities of Agapito's dowries. Informants were usually rewarded with a portion of the fine imposed on the «tax evaders» whom they had denounced to the officials.

Another question that cannot be answered with certainty concerns the low-yielding, statutory tax rate on dowries. At 2 *denari* per each *lira*, the rate corresponded to 0.83%, yielding on a dowry of 1,000 florins, a paltry 8 florins, 6 *soldi*. This rate was substantially less than the going rate of 3 1/3% payable on dowries contracted in the city of Pisa, or the going rates of around 3% in Florence and 2 1/2% in Lucca<sup>33</sup>. By way of illustration, in 1428, Battista di Bondo Lanfreducci, a wealthy Pisan citizen, paid a *gabella* of 15 florins, 16 *soldi*, that is, at a rate of 3 2/5%, on a dowry valued at 450 florins that he acknowledging receiving in Pisa<sup>34</sup>. The standard rate paid on dowries record-

<sup>31</sup> I have found only one instance of notification by a third party, in this case of a Pisan husband who received a dowry in Livorno. *Ibidem*, fol. 213r (1 October 1425): «Aghabitus Pauli civis contraxit matrimonium cum domina Antonia, filia Puccini de Luberno, et habuit in dotem dicte domine Antonie a Jacobo dal Ponte florenos centum. Michael Benenati de Sancto Geminiano notificavit Sandro de Altovitis et Nicolo Luce de Albizis provisoribus gabelle dictum contractum, die primo octobris MCCCCXXV, more Florentie». For payment of the *gabella*, *ibidem*, fol. 258r.

<sup>32</sup> On such logistical impediments, see A. Molho, *Marriage Alliance in late Medieval Florence*, Cambridge (Mass.) 1994, p. 56; and Kirshner, *The Morning After*, p. 51. Another difficulty was giving nonresidents adequate notice of the order issued by the officials requiring them to pay the *gabella*.

<sup>33</sup> Molho, *Marriage Alliance*, p. 56; *Inventario del R. Archivio di Stato in Lucca*, ed. S. Bongi, Lucca 1876, p. 24. The Florentine Goro Dati reported a *gabella dotis* of 3 1/3% in 1402. See L. Pandimiglio, *I libri di famiglia e il «libro segreto» di Goro Dati*, Alessandria 2006, p. 106.

<sup>34</sup> P. Pecchiai, *Il libro di ricordi d'un gentiluomo pisano del secolo XV*, in «Studi storici diretti da A. Crivellucci», 14 (1905), p. 331. In the *Capitoli* of 1509 establishing the terms of Pisa's reincorporation into Florence's dominion, the *gabella dei contratti* payable by inhabitants of the *contado* was limited to 8 *denari* per *lira*, or 3 1/3%. G. Benvenuti, *Storia dell'assedio di Pisa (1494-1509)*, Pisa 1969, p. 143, n. 40.

ed in the registers of the *gabelle dei contratti* was 3 1/3%<sup>35</sup>. One is left to speculate on the reasons for the apparent gap between the statutory and going rates. Arguably, the statutory rate may have been introduced as a supplementary tax on top of the *gabella* husbands would have paid in the localities where they had contracted marriage and acknowledged receipt of the dowry. Yet future research on Pisa's contract tax in the fifteenth century may show that the reported gap is a mirage and that in fact there was minimal difference between the rates.

2. The first opinion, composed by an unidentified jurist, opened with a flat denial that Agapito's dowries were subject to the contract tax. The fundamental laws *Ut animarum* in the *Liber sextus* (VI 1. 2. 2) and *Cunctos populos* in Justinian's *Codex* (C. 1. 1. 1) were cited for the bright-line rule that a city's laws were binding on the acts performed by its subjects where it had jurisdiction, but not on acts they performed outside its territory (*extra territorium*)<sup>36</sup>. Correspondingly, the Pisan laws were classified as offensive (*odiosum*) for contradicting *ius commune* rules and illegitimately imposing what amounted to a new tax, therefore making it unenforceable in a foreign jurisdiction. Implicit here was another rule: advantageous laws (awarding exemptions and privileges) might apply to citizens residing beyond the city's jurisdiction, while offensive laws (imposing taxes and burdens) were not applicable (*quod odiosa sunt restringenda, favores ampliandi*)<sup>37</sup>. Forgoing more arguments that would only have belabored the obvious, the jurist succinctly resolved that Pisa's contract tax could not be imposed, first, because the promises, payments, and *confessiones* for the two dowries were made outside Pisan territory, and second, because Agapito lived with each wife in Genoa, where he had already paid the tax on their dowries<sup>38</sup>. He could also have pointed out that Agapito's actions were no different from those of the many foreign husbands residing («ad presens habitans», «commorans»), marry-

<sup>35</sup> The calculation of *gabelle* was based on the valuation of the florin at 4 *lire*. Some examples, all from ASPi, *Gabella dei contratti*, n. 4: Antonio di Bacciomeo paid a *gabella* of 30 *lire* for a dowry valued 225 florins, a rate of 3 1/3% (fol. 5r, 30 June 1423); Pardo di Andrea paid a *gabella* of 6 *lire*, 13 *soldi*, 4 *denari* for a dowry 30 florins, a rate of 3 1/3% (fol. 20r, 31 July 1423); Angelo di Piero, a German residing in Pisa, paid a *gabella* of 8 *lire* for a dowry, conveyed to him by Corradina di Cambio of Florence, valued at 60 florins, a rate of 3 1/3% (fol. 87r, 30 October 1426).

<sup>36</sup> W. Onclin, *La doctrine de Bartole sur les conflits de lois et son influence en Belgique*, in *Bartolo da Sassoferrato. Studi e documenti per il VI centenario*, II, Milano 1962, pp. 373-398; C. Storti Storch, *Ricerche sulla condizione giuridica dello straniero in Italia. Dal tardo diritto comune all'età preunitaria: aspetti civilistici*, Milano 1990, pp. 29-66.

<sup>37</sup> L. Mayali, *La notion de «statutum odiosum» dan la doctrine romaniste au Moyen Âge. Remarques sur la fonction du docteur*, in «*Ius commune*», 12 (1984), pp. 57-69; Lorenz, *Das Dotalstatut*, pp. 88-92.

<sup>38</sup> *Consilium XII*: «Et quia res est clara, ulterius me non extendo, concludens dictum Agabitum ad solutionem dictarum gabellarum nullatenus teneri, attento quod promissiones dotium, solutiones et confessiones ipsarum dotium fuerent facte extra territorium pisanum et attento quod dicte uxores fuerunt ducte ad civitatem Ianue et ibi fuerunt solute gabelle istarum dotium».



ing, and receiving dowries in Pisa, who routinely paid Pisa's *gabella dotis* in compliance with the city's laws<sup>39</sup>.

The second opinion, composed by Urbano da Cevoli, also held that the Pisan law was unenforceable «in a foreign territory» («in alieno territorio»). He argued that the very wording of the law militated against its application to Agapito's case. The law stated that whoever had taken a wife and led her into his household («uxorem ceperit et eam duxerit») was required to pay the commune of Pisa a tax of 2 *denari* for each *lira* of the wife's dowry and trousseau (*corredo*)<sup>40</sup>. The wording was construed to mean, first, that the *gabella dotis* was triggered by the consummation of the marriage – that is, by «taking» and «leading» the wife, not by the promise of the dowry and the husband's assumption of liability («promissio dotis et confessio»); and, second, that the «taking» and «leading» had to be performed in Pisan territory<sup>41</sup>. The interpretation was clever but seemingly arbitrary. No authority, reason, or indicia of legislative purpose were offered to support the interpretation that *gabella* was due only if the marriage was consummated in Pisan territory. At any rate, the upshot was that insofar as the «taking» and «leading» were performed outside Pisan territorial jurisdiction, Agapito was freed from payment of the *gabella*.

In the third and final opinion, Nello da San Gimignano, disagreeing with his colleagues, defended the enforceability of Pisa's laws. Agapito, he insisted, was at least liable for the *gabella* on Tommasa's dowry received and acknowledged in Lucca, for both acts occurred within fifty miles of Pisa. In support, he referred to instances in Justinian's *Corpus iuris* where citizens residing or traveling beyond the jurisdiction of their native cities were nevertheless bound by their laws<sup>42</sup>. In theory, the alignment between Pisan law and

<sup>39</sup> The foreigners who resided, married, received their dowries, and paid the *gabella dotis* in Pisa hailed from north and central Italy (Genoa, Siena, Florence, San Miniato al Tedesco, Perugia, Todi, Bologna, Piemonte, Cremona, Verona, Venice) and from Germany and Constantinople. See ASPI, *Gabella dei contratti*, n. 4, fols. 32r, 36r, 42v, 50v, 53v, 87r, 107r, 109v, 120v, 126r, 182r, 192r, 201r, 240r, 245r-v.

<sup>40</sup> *Consilium* XII: «Et quicumque uxorem ceperit et eam duxerit, teneatur et debeat solvere comuni Pisanorum pro gabella denariorum duorum pro libra pro dote, donamentorum et corredorum et valentis possessionum». The tax rate, 2 *denari* per *lira*, was substantially lower than the mid-Trecento rate of 8 *denari* per *lira* cited by R. Castiglione, *Gabelle e diritti comunali nel Trecento a Pisa*, in «Bollettino storico pisano», 71 (2002), p. 65.

<sup>41</sup> *Consilium* XII: «Sola ergo promissio dotis et confessio non faciunt deberi gabellam communis Pisanorum, set captio et ductio, et iste actus captionis et ductionis debet expleri in territorio statuentis».

<sup>42</sup> D. 1. 1. 9, *Omnes populi*; C. 1. 1. 1, *Cunctos populus*; D. 50. 9. 6, *Municipii lege*; C. 4. 63. 4, *Mercatores*. See also P.S. Leicht, *Cino da Pistoia e la citazione di Re Roberto da parte d'Arrigo VII*, in «Archivio storico italiano», 112 (1954), pp. 313-320; P. Stein, *Bartolus and the Conflict of Laws and the Roman Law*, in *The Character and Influence of Roman Civil Law: Historical Essays*, London 1988, pp. 83-90; and J. Kirshner, «Made Exiles for the Love of Knowledge»: *Students in Late Medieval Italy*, in «Mediaeval Studies», 70 (2008), pp. 163-202. This *ius commune* norm extended to nonoriginal citizens, that is, newcomers to whom the government granted privileges of citizenship. On this point, see J. Kirshner, *Citizen Cain of Florence*, in *La Toscane et les Toscans autour de la Renaissance. Cadres de vie, société, croyances. Mélanges offerts à Charles-M. de La Roncière*, Aix-en-Provence 1999, pp. 175-189.

the *ius commune* applied equally to the second marriage. Nello relented, however, conceding that only the *gabella* on the first dowry received in Lucca should be paid. While the second dowry, received in Genoa, was not subject to the contract tax, Nello held that by virtue of his Pisan citizenship Agapito continued to be bound by Pisa's laws and jurisdiction wherever he chose to live, no matter how distant from his native city<sup>43</sup>. Nello's emphasis on the perduring character of original citizenship was unobjectionable. After all, Agapito's decision to contest the matter with the tax officials affirmed his recognition of Pisa's original jurisdiction. Still, Nello's opinion, in my view, was ill founded. The forensic maneuver of silently passing over of the *ius commune* rule that the laws of the locality in which a contract is concluded (*lex loci contractus*) have priority was tantamount to an admission of the porous legal grounds on which the Florentine *provveditori*'s claim was staked.

3. The enforceability of Pisa's contract tax on the dowries of Pisan citizens residing in Genoa was also addressed by the Florentine jurist and humanist Benedetto Accolti of Arezzo (1415-1464). After receiving his degree in civil law from the University of Bologna at the age of seventeen, Accolti taught at the University of Florence, and after matriculating in the city's Guild of Lawyers and Notaries in 1440, he enjoyed a thriving practice. He was elected first chancellor of the republic in 1458, a dignity he held until his death<sup>44</sup>. A manuscript copy of his *consilium* on the Pisan contract tax, written sometime after 1440, is also found in the Archivio di Stato of Florence<sup>45</sup>. A marginal notation announced the *consilium*'s theme: «Whether the tax on dowries should be paid in the place where the contract is executed or in the husband's place of origin» («An gabella dotis solvatur in loco contractus celebrati vel in loco originis»). Perhaps for political reasons, the jurist employed the pseudonym Sempronius to disguise the husband's real name<sup>46</sup>. Once more, we have to make do with a condensed summary of the case, because the file containing the relevant *acta* that undoubtedly rested on the jurist's desk when he

<sup>43</sup> *Consilium* XII: «Et sic concludo quod de prima dote debetur gabella, quia recepta intra quinquaginta miliaria per subditum statuto. De secunda non, quia recepta extra quinquaginta miliaria, licet sit subditus statuto. Laus Deo. Ego Nellus etc. Florentie die 16 aprilis 1423».

<sup>44</sup> R. Black, *Benedetto Accolti & the Florentine Renaissance*, Cambridge 1985, pp. 41ff; Martines, *Lawyers and Statecraft*, pp. 105-106, 502-503; Park, *The Readers at the Florentine Studio*, pp. 296, 300, 301, 302; J. Davies, *Florence and its University during the Early Renaissance*, Leiden-Boston-Cologne 1998, p. 177.

<sup>45</sup> ASF, Corporazioni Soppresses dal governo francese, 98, n. 252, fols. 170r-172r (hereafter cited as Accolti).

<sup>46</sup> Other standard pseudonyms were Titius, Petrus, and Martinus, as in a case involving four Pisan citizens exiled to Genoa: «Questio super qua consilium petitur, ponitur esse talis: Quattuor homines, videlicet Petrus, Martinus, Titius et Sempronius origine Pisani». This is the beginning of the *punctus* preceding a *consilium* written by the jurist «Petrus domini Albisi de Pisis legum doctor». A copy of the *consilium* is preserved in Biblioteca Apostolica Vaticana, Barb. lat. 1399, fol. 123r-v.

composed his opinion was omitted from the manuscript in which the copy of the *consilium* has been preserved. Accolti offers no hint of who commissioned his *consilium*<sup>47</sup>.

By origin Sempronius was considered a Pisan citizen, by residence and domicile a citizen of Genoa. Although there is no indication that Sempronius was a *civis ex privilegio* or *ex conventione*, that is, granted the privilege of Genoese citizenship by legislative enactment, Accolti reiterated that under the *ius commune* he was a citizen of Genoa on the basis of his residence and payment of taxes there<sup>48</sup>. While residing in Genoa Sempronius married a Genoese woman from whom he received a dowry. The question put to Accolti was whether Sempronius could be compelled to pay the dowry contract tax in Pisa<sup>49</sup>. At first blush, it seemed that the tax was enforceable, since a city's laws bound its citizens even when they resided beyond its territorial jurisdiction. And following Roman law norms, buttressed by the *glossa ordinaria* and the commentaries of the celebrated jurists Bartolus of Sassoferrato (1313/14-1357) and Baldus de Ubaldis (1327-1400) of Perugia, Accolti maintained that the laws of Pisa had priority over those of Genoa, because one's place of origin (*locus originis*) was nobler than one's domicile<sup>50</sup>.

Invoking Bartolus's multifaceted authority once again, but performing a U-turn, Accolti denied that the Pisan law applied to the dowry received by Sempronius or that it was enforceable beyond Pisa's territorial borders. It was an entrenched rule of the *ius commune* that the contracts were subject to

<sup>47</sup> In 1426 the duties of the *provveditori* passed to the Florentine *Consoli del Mare*. From the 1440s onwards, the duties of the *Consoli del Mare* passed to other magistracies, the *Cinque Governatori e Conservatori della Città di Pisa* and Florence's *Capitani della Parte Guelfa*, any one of which could have commissioned Accolti's *consilium*.

<sup>48</sup> See also Bartolomeus Soncinus, *Consiliorum seu potius responsorum Mariani Soncini ac Bartholomaei filii senensium... volumen primum [-secundum]*, Venetiae 1579, I, fol. 217v, n. 3: «dico quod ex sola longa habitatione de iure communi efficitur quis civis». On the legal doctrines regarding the acquisition of citizenship through residence and payment of taxes, see J. Kirshner, «Civitas sibi faciat civem»: Bartolus of Sassoferrato's Doctrine on the Making of a Citizen, in «Speculum» 48 (1973), pp. 694-713. On *cives ex privilegio* and foreigners residing in Genoa, see G. Casarino, *Stranieri a Genova tra Quattro e Cinquecento: tipologie sociali e nazioni*, in *Dentro la città. Stranieri e realtà urbane nell'Europa dei secoli XII-XVI*, ed. G. Rossetti, Napoli 1989, pp. 137-150; and G. Casarino, *Rappresaglie o privilegi? Dai debiti mercantili alla co-promozione industriale. I Lucchesi a Genova tra Tre e Quattrocento*, in *Comunità forestiere e nazioni nell'Europa dei secoli XIII-XVI*, ed. G. Petti Balbi, Napoli 2001, pp. 299-324.

<sup>49</sup> Accolti, fol. 170r: «Dubitatur an dictus Sempronius, qui origine est pisanus et habitatione et domicilio civis ianuensis, possit cogi ad solvendam gabellam in civitate Pisarum dotis sibi solute respectu matrimonii initi in dicta civitate Ianuae cum puella ianuensi, attentata forma statuti civitatis Pisarum per quod in effectum disponitur quod si quis contraxerit matrimonium debeat solvere tantum pro dote loco ghabelle, et quod per instrumentum alicuius contractus initi infra 50 miliaria debeat solvi ghabellam».

<sup>50</sup> Accolti, fol. 170r: «Et notatur hoc per Bartolum et Baldum in l. 1., C. de sum. Trin. (C. 1. 1. 1), et precipue videtur utrum in proposito, quia dictus Sempronius origine est pisanus, quamquam domicilio sit ianuensis et constitutus, et ideo in dubio debet preferri ad imponendum sibi onus, locus originis loco domicilii et civitatis. Nam originis locus nobilior est, l. Relegatorum, §. Interdicere (D. 48. 22. 7. 10) et ibi per Bart., ff. de interdict. et releg. (D. 48. 22), et l. Libertus, §. Prescriptio, ff. ad munici. (D. 50. 1. 17. 3); et ita voluit glo. expresse in l. Cives, C. de incol. (C. 10. 40 [39]. 7), et ibi per Bart. Et idcirco sine dubio est concludendum ut supra».

the laws of the locality in which they were concluded<sup>51</sup>. Similarly, with regard to the contracts of dowry and marriage, one looked to the law of the place in which the husband «led» his wife, established domicile, and was paid the dowry. Assuming that the marriage occurred in Genoa, where Sempronius resided and duly paid taxes on his contractual transactions and residence, it followed that his marriage was governed by Genoese laws and customs<sup>52</sup>. Indeed, Accolti correctly avowed, «it is customary in all the parts of Italy that *gabelle* are paid even by foreigners for contracts and things brought to the city where they are found»<sup>53</sup>.

It was also a rule that the imposition of *gabelle* was a matter of strict law (*stricti iuris*). Technically, this meant that because the Pisan officials' ability to impose *gabelle* derived from an authority inferior to the emperor's, the contract tax could not be imposed beyond the city's territorial jurisdiction. For being at odds with the *ius commune*, the Pisan statute was again classified as offensive (*odiosum*), making it unenforceable<sup>54</sup>. Simply put, Pisa's authority to impose *gabelle* was strictly limited to its own territory. Accolti then cited Baldus for the argument that a newly enacted law (*ius*) may not apply beyond the lawmaker's jurisdiction<sup>55</sup>. The Pisan law was also unenforceable for failing to state expressly and positively that the contract tax should be binding on subjects found outside Pisa's territory<sup>56</sup>. Finally, if it were true that Sempronius could be required to pay the *gabella* in Pisa, the result would be doubly offensive in that he would be paying a *gabella* in Genoa and Pisa for the very same thing. Such an illogical outcome, Accolti

<sup>51</sup> Accolti, fol. 170r: «Set prefatis non obstantibus, contrarium reputo verius de iure. Et circa hoc primo adverto quod regulariter locus ibi fit contractus attendi debet quantum ad ea que debent servari in dicto contractu vel pro eo, ut in l. Si fundus, ff. de evic. (D. 21. 2. 6), et l. Omnem, ff. de solut. (?), et not. per Bartolum in d. l. 1, de sum. Trinta».

<sup>52</sup> Accolti, fol. 173r-v: «Item quod sponte est in contractu dotis vel matrimonii quod illis attendi locus ubi vir uxorem ducit et ubi domicilium habet, l. Exigire dotem, et ibi per Bart., ff. de iudi. (D. 5. 1. 65), et not. per eundem in dicta l. 1 (C. 1. 1. 1). Et facit quod habetur in l. fin., §. Idem rescripserunt, ad munici. (D. 50. 1. 38. 3). Et ideo quia presupponitur quod matrimonium in civitate Ianuae <contraxit> et ibi Sempronius habitat et subiit honora, tam respectu contractus quam respectu habitationis viri, dictum matrimonium debet regulari secundum leges et consuetudines ianuenses». On the dictum, «forum domicilii est potentius quam sit forum originis», see Rolandus a Valle, *Quaestiones de lucro dotis*, in *Tractatus universi iuris*, Venetiae 1583-1586, IX, fol. 360r, nn. 15-24.

<sup>53</sup> Accolti, fol. 170v: «Insuper consuetudo est in omnibus partibus Italiae quod gabelle solvantur etiam a forensibus pro contractibus vel rebus asportatis in civitate in qua reperiuntur».

<sup>54</sup> Accolti, fol. 170v: «Pretera onus ghabelle est stricti iuris et odiosum precipue quando imponuntur ab inferiore a principe, per ea que not. per Bar. in l. Locatio (MS: Licitati), §. fin. (D. 39. 4. 9. 8), et l. Vectigalia, de public. (D. 39. 4. 10) [...] Et ideo inpositio sit stricti iuris, non debet comprehendere solutionem gabelle super existentibus in alieno territorio». See also Bartolus to C. 1. 1. 1, *Cunctos populos*, *Commentaria*, Venetiae 1529, VII, fol. 6r, n. 35: «nam actus quod etiam spectat ad iurisdictionem voluntariam, quandocunque conceduntur ab alio inferiore a principe, non possunt exerceri extra territorium».

<sup>55</sup> Accolti, fol. 170v. See Baldus to C. 1.1.1, *Cunctos populos*, *Commentaria*, Venetiae 1599, IX, fol. 8r, n. 76: «quia ubi agitur de iure noviter inducendo per statutum, statuentes nihil possunt ultra limites quibus iurisdicatio realiter limitatur, id est, ultra territorium, ut infra, de decurionibus, leg. Duumvirum impune, libro 10 (C. 10. 32 [31]. 53)».

<sup>56</sup> Accolti, fol. 170v.

admonished, should be prevented because of the resulting harm to Sempronius<sup>57</sup>.

Accolti now addressed the tax obligations of individuals possessing dual citizenship. His authority was Bartolus and the *Glossa ordinaria*, the starting points for the examination of the problems arising from dual citizenship. Bartolus held that if anyone was a citizen of two cities and had property in both, then each city was restricted to imposing taxes on the portion of his property located within its own jurisdiction<sup>58</sup>. Bartolus's doctrine enabled Accolti to argue that because Sempronius was a citizen of both Pisa and Genoa but had received a dowry consisting of property located in Genoa, he was obligated to pay the contract tax in Genoa rather than Pisa. Accolti conceded that all things being equal, that is, if one was called to pay taxes in one's *origo* and place of domicile simultaneously, the *ius commune* dictated that one's *origo* indubitably took priority. This normative model was irrelevant here, for the reason that Sempronius had already paid the contract tax in Genoa, defeating Pisa's claim to priority as *civitas originis*<sup>59</sup>. Last and obvious was Genoa's great distance from Pisa, more than fifty miles, placing Sempronius's dowry far beyond the reach of Pisa's contract tax<sup>60</sup>.

Accolti's consilium was endorsed (*subscripserunt*) by three other Florentine practitioners, Sallustio Buonguglielmi of Perugia (1373-1461), Giovanni Buongirolami of Gubbio (1381-1454), and Benedetto Barzi of Perugia (1379-ca. 1459), who taught civil law at the University of Florence between 1335 and 1442<sup>61</sup>. They unhesitatingly restated Baldus's determina-

<sup>57</sup> Accolti, fol. 170v: «Set si esset verum quod dictus Sempronius posse cogi ad solvendum in dicta civitate Pisarum, resultaret magna absurditas quod ipse solveret Ianuae et Pisis gabellam pro eadem re [...] Et ideo ut talis absurditas evitetur, reformationes pisanae simpliciter loquentes debent restringi».

<sup>58</sup> Accolti, fols. 170v-171r: «Insuper, ut supra dictum est, gabella solvitur pro rebus a persona, et idcirco ex quo dictus Sempronius est civis ianuensis et ibi habitat et ibi accipit uxorem et ibi accipit dotem de bonis ibi existentibus, sequitur manifesta conclusio quod onus gabelle quod solvitur per dotem est solvendum Ianuae et non Pisis, quantum etiam sit pisanus civis, ut determinat expresse Bartolus in simili casu post glossam in l. 1, de mulieribus (C. 10. 64 [62]. 1), in versiculo "Quero aliquis est civis et alibi", ubi concludit quod si quis est civis in utraque civitatibus et in utraque habet bona, collectam que imponitur personis pro bonis debet solvere separatim secundum bona sita in diversis locis, et in uno quoque loco pro portione solvenda est. Igitur cum dictus Sempronius sit civis pisanus et ianuensis et receperit dotem de bonis existentibus Ianuae; ibi debet solvere gabellam pro illis, non in civitate Pisarum». See Bartolus to C. 10. 64 [62]. 1, *Eam que aliunde, Commentaria*, IX, fol. 23r (*additio*).

<sup>59</sup> Accolti, fol. 171r: «Preterea presuponitur mihi in facto quod pro dicta dote fuit soluta gabella Ianuae, quo casu stat regula quod licet in casu pari quando quis vocatur ad onera in civitate originis et in loco domicilii, preferatur civitas originis, et prius loco dictum est; tamen si iam una civitas preoccupavit, quia in illa solutum est, non potest quis cogi ad solvendum in civitate originis: et ita determinat glossa in dicta l. Cives, expresse, circa medium, C. de incolis, libro X (C. 10. 40 [39]. 7). Ergo sequitur ex predictis, ex eo <quod> semel Ianuae gabella soluta est pro dicto contractu dotis et matrimonii, non potest amplius cogi prefatus Sempronius ad solutionem Pisis».

<sup>60</sup> Accolti, fol. 171r: «Unde cum statutum permittat gabelle exactionem usque ad 50 miliaria, ultra ea videtur prohiberi».

<sup>61</sup> On Buonguglielmi, see J. Kirshner, *Bartolo of Sassoferrato's "De tyranno" and Sallustio Buonguglielmi's consilium on Niccolò Fortebracci's Tyranny in Città di Castello*, in «Mediaeval

tion that where a statute required payment of a contract tax, the statute did not apply to a contract made by a subject outside the legislator's territory, «because statutes of this kind authorizing *gabelle* are against the *ius commune*»<sup>62</sup>.

4. The primary source for our third case is a *consilium* of the Milanese jurist Filippo Decio (1454-1536/1537). Numbered 457 in the printed editions of Decio's *consilia*, his *consilium* became a «leading opinion» and was cited in manuals for legal practitioners<sup>63</sup>. At issue was the contract tax regarding the dowry that «dominus Vitalis hebraeus et civis pisanus» had received in Venice, where he had also contracted and consummated his marriage. The case was adjudicated before the Sea Consuls of Florence (*Consoli del Mare*) stationed in Pisa. Although their jurisdictional authority over commercial and fiscal matters had shriveled over the course of the fifteenth century, the Sea Consuls continued to be responsible for the administration of individual Pisan *gabelle*<sup>64</sup>. Decio was asked to resolve a two-pronged question regarding Vitale's status as a citizen of both Pisa and Florence. First, was Vitale, by virtue of his status as a *civis pisanus*, required under *ius commune* rules or Pisan laws to pay the contract tax in his native city? Second, if he was not required to pay the Pisan contract tax, was he then required to pay the contract tax as a reputed *civis florentinus* in accordance with certain *Capitoli* or negotiated conventions, often renewable, establishing the terms by which Jewish bankers were granted an exclusive license to lend money at interest for a limited number of years in the city, *contado*, and *distretto* of Florence<sup>65</sup>?

Studies», 68 (2006), pp. 303-331; on Barzi, see Barzi, *Benedetto*, in *Dizionario biografico degli italiani*, 8, Roma 1965, pp. 20-25; Park, *The Readers at the Florentine Studio*, pp. 292-299; and R. Abbondanza, *Una nuova fonte per la biografia di Benedetto Barzi da Perugia (1379-ca. 1459)*. *Con precisazioni su Benedetto da Piombino*, in «Index», 22 (1994), pp. 512-528; on Buongirolami, see Martines, *Lawyers and Statecraft*, p. 501; T. Kuehn, *Illegitimacy in Renaissance Florence*, Ann Arbor 2002, pp. 185ff.

<sup>62</sup> Accolti, fol. 171r: «Et inducit Baldus punctualiter ad decisionem thematis nostri, dicens quod si statutum cavetur quod de contractu debet solvi gabellam, tale statutum non venidicat sibi locum in contracto facto per subditum extra territorium statuentis, cum huiusmodi statuta gabellarum sint contra ius commune».

<sup>63</sup> Phillipus Decius, *Consiliorum sive Responsorum tomus primus[–secundus]*, Venetiae 1580-1581, II, cons. 457, fols. 117v-118r (hereafter cited as Decius). The *consilium* was cited by Domenico Toschi, *Practicarum conclusionum iuris in omni foro frequentiorum...*, Lugduni 1634-1670, IV, p. 72, concl. 4 (*Gabella de quibus contractibus soluatur multis locis et de quibus non*); VI, p. 142, concl. 356 (*Pisarum civitas, statuta, consuetudines et privilegia*).

<sup>64</sup> On the office and jurisdiction of the Sea Consuls of Florence, see M.E. Mallett, *The Sea Consuls of Florence in the Fifteenth Century*, in «Papers of the British School of Rome», 27 (1959), pp. 156-168, and M.E. Mallett, *The Florentine Galleys in the Fifteenth Century*, Oxford 1967; E. Fasano Guarini, *Città soggette e contadi nel dominio fiorentino tra Quattro e Cinquecento: il caso pisano*, in *Ricerche di storia moderna*, I, Pisa 1976, p. 23; and A. Addobbati, *La giurisdizione marittima e commerciale dei Consoli del Mare in età medicea*, in *Pisa e il Mediterraneo: uomini, merci e idee dagli Etruschi ai Medici*, ed. M. Tangheroni, Milano 2003, pp. 311-315.

<sup>65</sup> Decius, fol. 117v: «In causa gabellae, quae tractatur coram Magnificis Consulibus Maris, quaeritur an dominus Vitalis hebraeus et civis pisanus teneatur solvere gabellam dotis pro matrimo-

An outstanding jurist and «brilliant personality with great appeal», who, in addition to his *consilia*, produced commentaries on the *Corpus iuris* and the *Liber extra* of Pope Gregory IX, Decio was still teaching at the Studio in Pisa in 1525 when he penned what would become «*consilium* 457»<sup>66</sup>. Who asked Decio to submit his *consilium* remains a mystery. It is entirely conceivable that the Florentine tax officials in Pisa, tasked with the enforcement of Florence's fiscal policies, demanded that Vitale pay the contract tax on the dowry. Vitale, after obtaining legal advice, would have responded through his procurators that he was not obligated to pay the tax. Presumably, because of the doubts raised by Vitale's counterclaim and his prominence and connections, the matter eventually landed before the Sea Consuls who decided civil law cases on the basis of Pisan law and the *ius commune*. Next, the office of Sea Consuls would have asked Decio to submit a *consilium sapientis* for a definitive and immediate resolution of the matter<sup>67</sup>. Alternatively, it is equally conceivable that Vitale commissioned Decio to submit a *consilium pro parte*<sup>68</sup>, so that his wholehearted defense of Vitale's counterclaim would have been undertaken for an eminent and wealthy client. This scenario is highly plausible in light of the da Pisa's history of requesting jurists, including Bartolomeo Sozzini (1436-1506) of the University of Pisa, Giovanni Crotto (d. 1516) of the University of Bologna, and Francesco Guicciardini in Florence,

nio contracto et consumato in civitate Venetiarum. Et pro vera resolutione videndum est de duobus. Primo, an tanquam civis pisanus attento iure communi et statuto pisano hic Pisis teneatur gabellam solvere. Secundo, dato quod non debeat solvere, an per capitula quae habent hebraei cum excellenti republica Florentinorum adstringatur ad solutionem dictae gabellae».

<sup>66</sup> The explicit of Decio's *consilium* («ut notat Bartolus in l. 1, ad munic., Philippus Decius, Pisis») makes clear that it was composed in Pisa. In fact, Decio was present at the *Studio* in Pisa through 1528, when he moved to Siena. A.F. Verde, *Dottorati a Firenze e a Pisa 1505-1528*, in *Xenia medii aevi historiam illustrantia oblata Thomae Kaeppli O.P.*, Roma 1978, pp. 714-728. For biobibliographical profiles of Decio, see H. Lange and M. Kriechbaum, *Römisches Recht im Mittelalter*, II, *Die Kommentatoren*, München 2007, pp. 874-881, quote on p. 877 («eine glanzvolle Persönlichkeit mit hoher Ausstrahlungskraft»); A. Belloni, *Professori giuristi a Padova nel secolo XV*, Frankfurt am Main 1986, pp. 190-193; and A. Mazzacane, *Decio, Filippo*, in *Dizionario biografico degli Italiani*, 32, Roma 1987, pp. 554-560.

<sup>67</sup> The reliance on *consilia* in cases involving Pisan citizens adjudicated before the Sea Consuls represented a long-standing practice dating from the fifteenth century. See the reference to one such case (*apud Consules Maris*) regarding Pisans residing in Florence in Tommaso Salvetti's commentary on the second book of the *Statutorum Florentinorum* of 1415: Biblioteca Nazionale Centrale di Firenze, MS II. IV. 434, fol. 13r. Pisan citizens routinely requested *consilia* as part of their pleadings before Florentine magistrates. For example, in 1439, the patrician Battista di Bondo Lanfreducci of Pisa paid the Florentine Guglielmo Tanagli for a *consilium* that the jurist had written on his behalf with regard to a debt he was trying to collect from the estate of Nicholaio Zoppo. The estate had come under the control of the Florentine *Ufficiali di Torre*, who were authorized to adjudicate claims against the goods and properties confiscated by the government from rebels and citizens condemned to banishment. See Pecchiai, *Il libro di ricordi d'un gentiluomo pisano del secolo XV*, p. 310.

<sup>68</sup> On the differences between *consilia sapientis* and *pro parte*, see M. Ascheri, *Le fonti e la flessibilità del diritto comune: il paradosso del consilium sapientis*, and J. Kirshner, *Consilia as Authority in Late Medieval Italy: The Case of Florence*, in *Legal Consulting in the Civil Law Tradition*, ed. M. Ascheri, I. Baumgärtner, J. Kirshner, Berkeley 1999 (Studies in Comparative Legal History, The Robbins Collection), pp. 11-54 and 107-142, respectively.

for *consilia pro parte* in disputes between the family and government officials in Lucca, Pisa, and Florence<sup>69</sup>.

Decio offered no further clues about the identity of «Vitalis» beyond the six-word reference in the opening of his *consilium*. To my knowledge, there is only one candidate who matches the identification of «lord Vitalis, Jew and Pisan citizen». It is almost certain that the reference was to Vitale (Yehiel Nissim) di Simone da Pisa, a prominent banker, scholar, and philanthropist<sup>70</sup>. He was born into Pisa's legendary Jewish banking family<sup>71</sup>, with its headquarters in Florence and financial dealings in Lucca, Siena, Arezzo, Bologna, Ferrara, Verona, Padua, and Venice. Vitale's grandfather, Vitale di Isacco, was on close terms with Lorenzo de' Medici, to whom he lent money, and from the late fifteenth century onward the family's ties to Florence were exceptionally strong<sup>72</sup>. Resting on their religious and cultural patronage as well as their financial and commercial activities, «the fame of the da Pisa», Luzzati observes, «went beyond the Italian borders and reached southern France and the Iberian Peninsula»<sup>73</sup>.

<sup>69</sup> Luzzati remarks that the da Pisa family «had close connections with university teachers, such as the lawyer Bartolomeo Sozzini»: M. Luzzati, *Ebrei ed ebraismo a Pisa. Un millennio di ininterrotta presenza. Jews and Judaism in Pisa: A Millennium of Uninterrupted Presence*, Pisa 2005, p. 23. In 1493, Sozzini was commissioned by Isacco and Simone for a *consilium* in their dispute with the treasury officials of Lucca. See P.M. Lonardo, *Gli ebrei a Pisa alla fine del secolo XV*, Bologna 1982 (rist. anast.), pp. 76-79. In 1509, Isacco commissioned the Florentine jurist Antonio di Vanni Strozzi (1455-1523) and Giovanni Crotto, among others, to submit *consilia* in support of his claim to the properties that had been confiscated in 1494 by the Pisan government; for which, see note 98 below. Later, in 1515, Isacco's sons engaged Francesco Guicciardini to be their «advocato» in a dispute before the *Otto di Guardia* in 1515. See O. Cavallar, *Francesco Guicciardini giurista. I ricordi degli onorari*, Milano 1991, pp. 84, 350, n. 557.

<sup>70</sup> On the da Pisa family, see U. Cassuto, *La famiglia da Pisa*, Firenze 1910; M. Luzzati, *L'insediamento ebraico a Pisa*, in M. Luzzati, *La casa dell'Ebreo. Saggi sugli Ebrei a Pisa e in Toscana nel Medioevo e nel Rinascimento*, Pisa 1985, pp. 27-29; M. Luzzati, *Matrimoni e apostasia di Clemenza di Vitale da Pisa*, in Luzzati, *La Casa dell'Ebreo*, pp. 61-106; Luzzati, *Ebrei ed ebraismo*, pp. 17-28. On Simone's and Vitale's activities in the Veneto, see M. Luzzati, *I legami fra i banchi ebraici toscani ed i banchi veneti e dell'Italia settentrionale. Spunti per una riconsiderazione del ruolo economico e politico degli Ebrei nell'età del Rinascimento*, in Luzzati, *La Casa dell'Ebreo*, pp. 246-255; and D. Jacoby, *Les Juifs à Venise du XIV<sup>e</sup> au milieu du XVI<sup>e</sup> siècle*, in *Recherches sur la Méditerranée orientale du XII<sup>e</sup> au XV<sup>e</sup> siècle*, London 1979, pp. 198-199. On Vitale di Simone's scholarship and intellectual standing, see R. Bonfil, *Rabbis and Jewish Communities in Renaissance Italy*, London-Washington 1993, pp. 253, 255, 284-289, 292-293; and A. Guetta, *Religious Life and Jewish Erudition in Pisa: Yehiel Nissim da Pisa and the Crisis of Aristotelianism*, in *Cultural Intermediaries: Jewish Intellectuals in Early Modern Italy*, ed. D.B. Ruderman and G. Veltri, Philadelphia 2004, pp. 86-108. On Vitale's economic ethics, *Banking and Finance among Jews in Renaissance Italy: A Critical Edition of The Eternal life (Haye olam) by Yehiel Nissim da Pisa*, ed. and transl. by G.S. Rosenthal, New York 1962. See R. de Roover's critical review of Rosenthal's introduction in «Business History Review», 37 (1963), pp. 458-459.

<sup>71</sup> The exact date of Vitale di Simone's birth is unknown. Luzzati, *I legami*, p. 250 states that Vitale was probably born around 1507 (a date that on further reflection, he relates in a private communication, now appears to be improbable), while Guetta, *Religious Life and Jewish Erudition in Pisa*, p. 86 conjectures that Vitale was born «1493?», but offers neither documentary evidence nor an argument in support of his conjecture.

<sup>72</sup> Cassuto, *La famiglia da Pisa*, p. 26, and U. Cassuto, *Gli ebrei a Firenze nell'età del Rinascimento*, Firenze 1965, pp. 55-58; Luzzati, *I legami*, p. 249.

<sup>73</sup> Luzzati, *Ebrei ed ebraismo*, p. 23.



With the death of Vitale di Isacco in 1490, Isacco and Simone, his two sons, assumed leadership of the family bank and commercial interests. Loyal adherents of Florence, the brothers were expelled from Pisa and had their urban and rural properties confiscated when Pisa regained its independence in 1494 with the encouragement and protection of the French King Charles VIII of France, who had invaded Italy and routed the Florentines. After the restoration of Florentine rule in Pisa in June 1509, Isacco and Simone were able to regain the majority of their properties, including the building in the heart of the city that housed the da Pisa bank and a synagogue, called *la casa dell'ebreo*<sup>74</sup>. Simone died in 1510, Isacco a few years after. In 1516 the da Pisa family was authorized to reopen and operate their bank in Pisa for ten years<sup>75</sup>.

In 1525 Vitale di Simone married Diamante, the daughter of Anselmo dal Banco (alias Asher Meshullam), a German-Jewish banker with lending operations in Padua and Venice<sup>76</sup>. Details on the amount of Diamante's dowry are lacking, but, judging from the dowries received by Vitale's relatives, the amount would have been substantial and commensurate with his elevated social and economic status<sup>77</sup>. After contracting and consummating his marriage in Venice, Vitale returned with his bride and dowry to the family's home in Pisa, where he attracted the attention of the Florentine tax officials intent on collecting the contract tax for his dowry. Vitale's return to Pisa is attested by the adventurer and pseudo-Messiah David Reubeni, who vividly recounted his visit in 1525 to Vitale's home, commending his host's learning, gracious hospitality, and aid to less fortunate coreligionists<sup>78</sup>.

Vitale's civic status as a *civis pisanus* derived from his family's long-established domicile in the city dating back to the early *Quattrocento*. *Ius commune* jurists construed individual surnames like «da Pisa» and «de Pisis» to signify one's place of origin (*origo*), where one was an original citizen (*civis originarius*), rather than the place where one had established permanent legal abode (*domicilium*)<sup>79</sup>. When a person was designated by the

<sup>74</sup> Luzzati, *I legami*, p. 254, n. 97; Cavallar, *Francesco Guicciardini giurista*, pp. 81-85; Luzzati, *Caratteri dell'insediamento ebraico medievale*, in *Gli Ebrei di Pisa (secoli IX-XX)*, Atti del convegno internazionale, Pisa, 3-4 ottobre 1994, ed. M. Luzzati, Pisa 1998, pp. 38-40.

<sup>75</sup> Luzzati, *Caratteri dell'insediamento*, p. 40, n. 28. See also B. D. Cooperman, *A Rivalry of Bankers: Responsa Concerning Banking Rights in Pisa in 1547*, in *Studies in Medieval Jewish History and Literature*, ed. I. Twersky, Cambridge (Mass.) 1984, II, pp. 41-50.

<sup>76</sup> On the bank of Asher Meshullam and his son Jacob, see B. Pullan, *Jewish Moneylending in Venice: From Private Enterprise to Public Service*, in *Gli Ebrei e Venezia. Secoli XIV-XVIII*, Atti del Convegno Internazionale, Venezia, Isola di S. Giorgio Maggiore, 5-10 giugno 1983, ed. G. Cozzi, Milano 1987, pp. 671-684.

<sup>77</sup> Luzzati, *I legami*, p. 251, n. 88; M.G. Muzzarelli, *I banchieri ebrei e la città*, in *Banchi ebraici a Bologna nel XV secolo*, ed. M.G. Muzzarelli, Bologna 1994, p. 153; A. Veronese, *Una famiglia di banchieri ebrei tra XIV e XVI secolo: i da Volterra. Reti di credito nell'Italia del Rinascimento*, Pisa 1998, pp. 45-46.

<sup>78</sup> L. Sestieri, *David Reubeni, un ebreo d'Arabia in missione segreta nell'Europa del '500*, Genova 1991, pp. 122-129.

<sup>79</sup> B. Kedar, *Toponymic Surnames as Evidence of Origin: Some Medieval Views*, in «*Viator*», 4 (1973), pp. 123-129; J. Kirshner, *A Consilium of Rosello dei Roselli on the Meaning of 'Florentinus', 'de Florentia' and 'de Popolo'*, in «*Bulletin of Medieval Canon Law*», 6 (1976), pp. 87-91.

appellative «pisanus», as was Vitale, it denoted that he was an original citizen of Pisa entitled to the core legal rights and protections enjoyed by all original Pisan citizens. The reason that these designations applied to Vitale lay in the venerable and operative rule that Jews were bound by the *ius commune* – more specifically, by the *lex Iudaei* (C. 1. 9. 8) which decreed that regarding venue, laws, and rights in civil litigation, Jews were subject to the common law of Rome. Commenting on the *lex Iudaei*, Bartolus affirmed that outside matters of their own religious practices and faith, «the Jews enjoy those things that pertain to Roman citizens»<sup>80</sup>.

Meanwhile, Vitale was prohibited by another *ius commune* rule from public dignities, honors, and offices, which would have placed him in authority over Christians, violating an ancient taboo<sup>81</sup>. Yet the prohibition against Jews holding public offices reserved to Christians in no way attenuated the authenticity of Vitale's original citizenship, just as the restriction of holding public office to a subset of adult men and a host of other civic disabilities did not attenuate the core legal rights and protections to which original female citizens were entitled in accordance with the norms of the *ius commune* and dispositions of Pisa's statutes. It cannot be stressed enough that in this period neither the *ius commune* nor town statutes in central and northern Italy made citizenship contingent on baptism into the Christian faith<sup>82</sup>. Vitale's religion and status as a Jew, which were never at issue in this dispute, were treated by legal authorities as distinct from his status as a Pisan citizen. This consequential distinction is captured in Decio's words for designating Vitale's

<sup>80</sup> K.R. Stow, *Catholic Thought and Papal Jewry Policy*, New York 1977, p. 102; Bartolus to C. 1. 9. 8, *Iudaei*, *Commentaria*, VII, fol. 30r.

<sup>81</sup> C. 1. 19. 18, *Hac victura*; *Decretum Gratiani*, C. 17 q. 4 c. 31, *Constituit*. On barring Jews from public dignities, honors, and offices in the *ius commune*, see *Gli ebrei nel sistema del diritto comune fino alla prima emancipazione*, Milano 1956, pp. 22ff; F. Margiotta-Broglio, *Il divieto per gli ebrei di accedere alle cariche pubbliche e il problema della giurisdizione ecclesiastica sugli infedeli nel sistema canonistico fino alle decretali di Gregorio IX. Appunti e ricerche*, in *Études d'histoire du droit canonique dédiées à Gabriel Le Bras*, Paris 1965, II, pp. 1070-1085; and W. Pakter, *Medieval Canon Law and the Jews*, Ebelsbach 1988, pp. 221-247.

<sup>82</sup> In his commentary on the *lex Municipem* (D. 50. 1. 1), *Commentaria*, VI, fol. 249r, n. 8, Bartolus pointedly denied that citizenship could be acquired or contracted through baptism: «videte non credo quod quantum ad temporalia quod per baptismum contrahatur civilitas, quia certi sunt modi per quos civilitas ut hic et l. Cives, C. de inco. (C. 10. 40[39]. 7), inter quos non est iste, sed quantum ad spiritualia relinquo canonistis». Pertinent, too, is Alessandro Tartagni's view that «Iudaei dicuntur esse de eodem populo et corpore civitatis, quamvis non sint de corpore spirituali». See *Consiliorum seu responsorum Alexandri Tartagni liber sextus*, Venetiae 1590, fol. 52v, cons. 99, n. 2. This was a common view: see Marquardas de Susannis, *De Iudaeis et aliis infidelibus*, in *Tractatus universi iuris*, XIV, secunda pars, cap. II, fol. 41v, n. 1. On this theme, see also V. Colorni, *Legge ebraica e leggi locali: ricerche sull'ambito d'applicazione del diritto ebraico in Italia dall'epoca romana al secolo XIX*, Milano 1945, pp. 86-94; *Gli ebrei nel sistema del diritto comune*, pp. 15ff; A. Toaff, *Judei cives? Gli ebrei nei catasti di Perugia del Trecento*, in «Zakhor. Rivista di storia degli ebrei in Italia», 4 (2000), pp. 17ff; Daniel Bornstein, *Law, Religion, and Economics: Jewish Moneylenders in Christian Cortona*, in *A Renaissance of Conflicts. Visions and Revisions of Law and Society in Italy and Spain*, ed. J. A. Marino and T. Kuehn, Toronto 2004, pp. 245-246.

civic identity. Vitale was designated a «hebraeus et civis pisanus», not a composite «civis hebraeus pisanus»<sup>83</sup>.

Enlisting the fifteenth-century authorities in company with Bartolus and Baldus, Decio argued that under *ius commune* rules Vitale was not required to pay the Pisan contract tax. «With regard to the first question, concerning the *ius commune* – he began –, it would seem clear-cut that [Vitale] is not obligated, because the *gabella* is a burden that results from the contract and it follows that the *gabella* should be paid where the contract is concluded»<sup>84</sup>. He cited the opinion of Alessandro Tartagni (1424-1477) that if the *gabella* was paid where the contract was made, it did not have to be paid in another locality, because one should not be compelled to pay the *gabella* twice for the same thing<sup>85</sup>. Could the husband be compelled to pay, if, after having contracted and consummated his marriage and paid the *gabella* in a place located outside the territory of the taxing authority, he returned with his wife to live together in his place of domicile? On the authority of *consilia* by Pier Filippo della Corgna (1420-1492) and Bartolomeo Sozzini in analogous cases, he was not compellable<sup>86</sup>. Similarly, Vitale could not be compelled under Pisa's laws to pay its

<sup>83</sup> This distinction was fairly common and employed in fourteenth-century Marseille. See D.L. Smail, *Imaginary Cartographies. Possession and Identity in Medieval Marseille*, Ithaca and London 1999, p. 200. As far as I can tell, there was no juridical category in Umbrian and Tuscan sources of this period signifying «Jewish citizenship», equivalent, say, to the public designations «israelitische Bürger» and «jüdische Bürger» employed in Frankfurt am Main before the Jews were granted citizenship rights equal to other citizens in 1864. *Judei cives?*, the confrontational title of Toaff's otherwise admirable study, is therefore misleading as it is anachronistic.

<sup>84</sup> Decio, fol. 117v, n. 1: «Circa primum de iure communi, res clara videtur quod non teneatur, quia gabella est onus consecutivum contractus, et ideo ubi contractus celebratur, ibi in consequentiam gabella solvi debet».

<sup>85</sup> Decio, fol. 117v, n. 3. See Alexander Tartagnus, *Consiliorum seu Responsorum...*, Lugduni 1549, VI, fol. 68v, cons. 143, n. 6: «Quarto, quero si de isto contractu, etc., et sic sequeretur quod Robertus teneretur de iure ad solvendum gabellam in civitate Bononie et etiam ad solvendum gabellam in civitate Cesene pro eodem contractu dotis, quod non est dicendum, quia res ista regulari debet ut pro eodem facto vel pro eodem re non solvatur bis gabella». To be clear, although Decio implied that Vitale had paid the contract tax on the dowry he presumably received in Venice, I have no corroborating evidence that he did. Moreover, unlike Pisa and Florence, Venice, to my knowledge, did not levy a specific *gabella* on dowries.

<sup>86</sup> Decio, fol. 117v, n. 4: «quod maritus qui solvit gabellam extra territorium in loco ubi matrimonium contraxit et consumavit, si postea ducat uxorem ad locum domicilii eius, non tenetur iterum solvere gabellam, et ita casu nostro contingit, et idem concludit Socinus in consilio 302». See Bartholomeus Socinus, *Prima [-secunda] pars consiliorum Mariani et Bartholomei de Socinis senensium*, II, fols. 167r-v, cons. 302, n. 2. Similarly, Petrus Philippus Corneus (Della Corgna), *Consiliorum sive responsorum [...] volumen quartum*, Venetiae 1572, fol. 111r-v, cons. 109, n. 2. In another *consilium* printed in the same volume, Corneus argued that a husband who consummated his marriage and paid a contract tax on his dowry in Fossombrone was thereby released from the obligation to pay the *gabella dotis* in his own locality, the land of Borgo Sansepolcro (*de terra Burgi*). See cons. 97, fol. 109r-v, nn. 3-4: «Insuper ex alio dicendum est quod dicta gabella solui non debeat per dictum Martinum, quia in themate praesupponitur quod ipse Martinus [de terra Burgi] pro dicta dote soluit gabellam in civitate Forimsempronii, ubi duxit uxorem, matrimonium cum ea consumando, ubi coactus fuit solvere gabellam ex forma statuti. Ideo dictam gabellam iterum solvere non tenetur, quia pro eadem re seu pro eodem contractu non debeat pluries solui gabella».

contract tax, as the laws did not apply to husbands who contracted and consummated their marriages outside Pisan territory<sup>87</sup> – a *ius commune* rule that we already encountered in the opinions discussed above.

The claim that the *Capitoli* made Vitale liable for the Florentine contract tax presented a thornier challenge. Arguing *pro et contra*, Decio first defended the government's claim before demolishing it. The *Capitoli* were probably those issued in 1514 and extended for another five years in 1524 by the officials of Florence's public debt (*Monte Comune*), who authorized the banking operations of several Jewish families. Among them were the «heirs of Simone di Vitale da Pisa», that is, his only son, Vitale<sup>88</sup>. In these and earlier *Capitoli* issued in the fifteenth century, Jewish lenders and their associates were required to pay a hefty annual tax (*taxa pro fenerando*) for the monopoly of operating in the city, *contado*, and *distretto* of Florence. Otherwise, they were exempt from all ordinary and extraordinary taxes, with the exception of *gabelle*, which they were required to pay just as other Florentine citizens (*prout tenentur cives florentini*). Thus, for example, the Jewish lenders were required to pay the *gabella contractus* on the acquisition and purchase of real estate not to exceed a certain value, and on all other goods, save the account books, items, and gold transported between the city and *contado*, which were connected with their lending activities.

Another standard provision of the *Capitoli* was the privilege that for the duration of their license the «Jews [bankers, family members, employees, and associates] in respect to their rights and in civil and criminal causes and suits should be regarded and treated to the same extent as true citizens of Florence» («hebrei in eorum iuribus et in causis seu casibus in civilibus et criminalibus debeant reputari et tractari tamquam veri cives civitatis Florentie»)<sup>89</sup>. The juridico-technical meaning and ramifications of this and similar privileges in the *Capitoli* of towns and cities of central and northern Italy, which conferred temporary citizenship on Jewish bankers and their entourages, have been debated by modern scholars, as they had been previously by jurists in the late *Trecento* and *Quattrocento*<sup>90</sup>. I am persuaded by

<sup>87</sup> Decio, fol. 117v, nn. 7 and 8.

<sup>88</sup> Cassuto, *Gli ebrei a Firenze*, p. 83; J.N. Stephens, *The Fall of the Florentine Republic, 1512-1530*, Oxford 1983, p. 73.

<sup>89</sup> For citizenship clauses in the *Capitoli* between Florence and the Jews of 1437, 1448, and 1481, see M. Ciardini, *I banchieri ebrei in Firenze nel secolo XV e il Monte di Pietà fondato da Girolamo Savonarola*, Borgo San Lorenzo 1907, pp. i-x, at vii (doc. I), pp. xxi-xxxv, at xxviii (doc. VI), lvii-lxxxi, at lxvi and lxviii (doc. XXI); and A. Gow and G. Griffiths, *Pope Eugenius IV and Jewish Money-Lending in Florence: The Case of Salomone di Bonaventura during the Chancellorship of Leonardo Bruni*, in «Renaissance Quarterly», 47 (1994), pp. 290-292. See also S.B. Siegmund, *The Medici State and the Ghetto of Florence: The Construction of an Early Modern Jewish Community*, Stanford 2006, pp. 140ff. On the *Capitoli* and enactments granting Jews the privileges of local citizenship, Colorni, see *La legge ebraica e leggi locali*, pp. 33-94, esp. 92, n. 78. On the juridical construction of citizenship-conferring enactments in Florence, see J. Kirshner, «Ars Imitatur Naturam»: A Consilium of Baldus on Naturalization in Florence, in «Viator», 5 (1975), pp. 289-331.

<sup>90</sup> S. Simonsohn, *La condizione giuridica degli ebrei nell'Italia centrale e settentrionale (secoli*

Toaff's argument, supported by ample evidence, that the terms of citizenship set forth in the *Capitoli* generally provided a temporally limited yet valuable and legally enforceable set of substantive immunities, privileges, and institutional protections which enabled Jewish bankers like Vitale da Pisa to conduct their lending and commercial operations in relative security<sup>91</sup>. In short, for the duration of the *Capitoli*, Vitale da Pisa would be – and was – treated in legal matters as a *bona fide* citizen of Florence, a status that carried potentially unwanted burdens as well coveted benefits.

In fact, according to the tax officials, it was Vitale's very status as a citizen of Florence that made him liable for the *gabella dotis*, just as all Florentine citizens who married elsewhere and later return home were obligated. As Decio explained, «citizens of Florence who contract and consummate their marriages and receive a dowry outside Florence's territory, should they return afterwards with their wives to Florence, are compelled to pay the *gabella* there in accordance with custom or statute»<sup>92</sup>. Civic equality meant that tax burdens had to be shared in equal measure by all citizens, with no exceptions. In support of this principle, Decio cited Baldus that if someone was granted the privileges and benefits (*favores*) of citizenship, he had to share the burdens (tolls and other personal and property imposts) as well as the benefits of citizenship equally with all other citizens, because civic burdens were necessarily intrinsic to citizenship itself<sup>93</sup>. For this stipulative reason, deference should be paid to Florentine custom and statutes.

XIII-XVI), in *Storia d'Italia, Annali* 11, *Gli ebrei in Italia*, I, *Dall'alto Medioevo all'età dei ghetti*, ed. by C. Vivanti, Torino 1996, pp. 108-116; R. Bonfil, *Società cristiana e società ebraica nell'Italia medievale e rinascimentale: Riflessioni sul significato e sui limiti di una convergenza*, in *Ebrei e cristiani nell'Italia medievale e moderna: Conversioni, scambi, contrasti*, ed. M. Luzzati, M. Olivari, A. Veronese, Roma 1988, pp. 255-256; Toaff, *Judei cives?*, pp. 17ff; E. Traniello, *Gli ebrei e le piccole città. Economia e società nel Polesine del Quattrocento*, Rovigo 2004, pp. 47-55; Traniello, *Tra appartenenza ed estraneità: gli ebrei e le città del Polesine di Rovigo nel Quattrocento*, in *Ebrei nella Terraferma veneta del Quattrocento*, ed. G.M. Varanini and R.C. Mueller, Firenze 2005, pp. 163-176 (also at the url: < <http://fermi.univr.it/rm/rivista/atti/Ebrei.htm> >); R.C. Mueller, *Lo status degli ebrei nella Terraferma veneta del Quattrocento. Tra politica, religione, cultura ed economia: saggio introduttivo*, in *Ebrei nella Terraferma veneta*, pp. 9-24.

<sup>91</sup> For similar positive assessments regarding the citizenship status of Jews in fourteenth-century Worms and Cologne, see G. Kisch, *Die Rechtsstellung der Wormser Juden im Mittelalter*, in «Zeitschrift für die Geschichte der Juden in Deutschland», 5 (1934), pp. 126-131; Schmandt, *Judei*, pp. 64ff. The enforceability of these privileges and the actual security experienced by the Jews were in fact variable and dependent on local political and religious circumstances. As is well known, the privileged status and citizenship of the Jews in north and central Italy were battered by the feral denunciations and crude libels of Franciscan Observants preachers, especially San Bernardino da Siena (d. 1444), San Giovanni da Capestrano, (d. 1456) and Blessed Bernardino da Feltre (d. 1494).

<sup>92</sup> Decio, fol. 117v, n. 8: «quod Florentiae observatur quod cives Florentini qui extra territorium contrahunt matrimonium et consumant matrimonium et recepta dote extra territorium, si cum uxore postea revertiantur Florentiam, ibi etiam coguntur gabellam solvere, sive hoc fit de consuetudine sive ex forma statuti».

<sup>93</sup> Decio, fol. 117v, n. 10: «quod si concessum sit alicui privilegium civilitatis in suum favorem, certe iste tenebitur ad datia seu collectas tanquam civis, quia hoc est onus civilitatis existentia rei». See Baldus, to D. 27. 1. 44, *Cum ex oratione*, *In primam et secundam infortiati partem*

Pivoting to Vitale's defense, Decio held that not all citizens were equally equal, a prime example of which was the status of foreign university professors and students during their academic tenures and period of studies<sup>94</sup>. To attract foreign scholars to their *studia*, city governments established that professors and students would be treated as citizens *in omnibus*, a vague legal construct that inadvertently made them vulnerable to civic burdens, jeopardizing the privileges and immunities they had traditionally enjoyed under the *ius commune* since the twelfth century. Following Bartolus's lead, his successors concurred that the purpose of this policy was to expressly favor scholars by enabling them to receive the benefits of citizenship while avoiding the legal disadvantages and obstacles faced by foreigners. Construing «in omnibus» to mean that scholars were liable for civic burdens was contrary to both the *ius commune* and benevolent governmental policies aimed at promoting scholarship and learning.

Decio applied the same interpretive logic to the *Capitoli*. Jewish bankers, just as university scholars, were said to enjoy the benefits of citizenship, while they were purposely released from its burdens<sup>95</sup>. He thus denied the allegation based on a narrowly literalistic interpretation of the *Capitoli* that the privileges and immunities conferred on the Jewish bankers made them coequal Florentine citizens. In no way were the privileges and immunities granted to the Jewish bankers identical and exclusively limited to those enjoyed by ordinary Florentine citizens. This narrow understanding of the *Capitoli* was considered offensive and «against the explicit intention of the parties» («contra manifestam intentionem partium»). The intention of both parties, the Jewish bankers and the commune of Florence, was that the Jews would enjoy the immunities and benefits attached to Florentine citizenship but be exempt from things offensive and repugnant (*odia*), a category that included the *gabella dotis*. There is an implicit irony to Decio's rejection of literalism, for it was the Jews who were repeatedly called to task by theologians and jurists for their allegedly stubborn adherence to literal interpretation<sup>96</sup>.

*commentaria*, III, fol. 36v, n. 1, where he gives the example of *comitativi* who received the privilege of citizenship: «quod comitativi sunt ad civilitatem recepti, eo ipso in poenis et favoribus debeant tractari ut veri cives, et non solum favoribus, sed in odiis, quod est verum, ut hic in fine, unde dispensatio super statu habet se pariter ad favorem et odium».

<sup>94</sup> Decio, fols. 117v-118r, nn. 11-12. On the doctrinal points discussed in this paragraph, see J. Kirshner, «*Made Exiles for the Love of Knowledge*», pp. 184-186. Female citizens who married elsewhere and became citizens in their husband's towns were similarly said to enjoy the benefits of original citizenship while being released from its burdens. See J. Kirshner, *Mulier Alibi Nupta*, in *Consilia im späten Mittelalter. Zum historischen Aussagewert einer Quellengattung*, ed. I. Baumgärtner, Sigmaringen 1995, pp. 147-175.

<sup>95</sup> Decio, fol. 118r, n. 13: «Non obstante allegatione supra in contrarium, et primo dum dicitur quod hebrei debent tractari in gabellis ut cives Florentini, quia hoc est verum respectu immunitatis in ipsorum favorem, secus est in eorum odium».

<sup>96</sup> W. Engelmann, *Die Wiedergeburt der Rechtskultur in Italien durch die wissenschaftliche Lehre. Eine Darlegung der Entfaltung des gemeinen italienischen Rechts und seiner Justizkultur im Mittelalter unter dem Einfluss der herrschenden Lehre der Gutachtenpraxis*

Baldus's essentialist reasoning, Decio continued, was irrelevant, because it was keyed to someone who was truly made a *civis ex privilegio* and inducted into the citizenry, which compelled him to participate equally with other true citizens in the burdens of citizenship. Such compulsion was missing in the case of those whose citizenship was contingent on the meaning of the imperative expression, «they ought to be treated as citizens». Its operative meaning refers to the benefits of citizenship only, as in the example of scholars, which, Decio insisted, was exactly how the language of the Florentine *Capitoli* should be construed<sup>97</sup>. Echoing Bartolus, he closed the *consilium* with the pithy declaration that «one can be made a citizen without civic burdens»<sup>98</sup>. All of this demonstrated to Decio's professional satisfaction why Vitale da Pisa was justly exempt from payment of the Florentine *gabella dotis*.

5. I am disappointed to have been unable to discover the final disposition in each of the three cases. Even though they were not procedurally required to accept a *consilium sapientis* as constituting the final judgment in the case, the presiding officials in garden-variety tax disputes usually accepted a *consilium sapientis* as binding, even more so when the consultor was of the stature of Filippo Decio, Italy's premier jurist. This approach would have been followed in cases like ours, in which the jurists were nearly unanimous in affirming *ius commune* rules against the extraterritorial reach of Pisa's laws and Florence's tax-demanding officials. Admittedly, the protagonist-husbands in two of the cases were hardly ordinary and unsurprisingly

*der Rechtsgelehrten und der Verantwortung der Richter im Sindikatsprozess*, Leipzig 1938, pp. 151-152; Stow, *Catholic Thought and Papal Jewry Policy*, pp. 149ff.

<sup>97</sup> Decio, fol. 118r, n. 13: «Non obstat quod onus gabelle veniat in consequentiam civilitatis secundum Baldum in locis in contrarium supra allegatis, quia loquitur Baldus in eo, qui efficitur civis ex privilegio, [in] dicta l. Quod favore (C. 1. 14. 6), et pariter in dicta l. Oratione (ED: Cum ratione) loquitur de receptis ad civilitatem. Nam tali casu cum sit civis absolute, tenetur subire onera civium; secus est, quando quis non efficitur civis, sed debet ut civis tractari, prout in casu isto dicitur, quia tunc talis praerogativa concessa in favorem non debet in odium resultare». Decio's distinctions were conventional; they are found in earlier discussions of the tax obligations of those «qui habeantur pro civibus»: see, for example, Iohannes Bertachinus (d. 1506), *De gabellis, tributis, & vectigalibus*, in *Tractatus universi iuris*, XII, fol. 65v, nn. 40-41. See also Iulius Ferretus (d. 1547), *De gabellis, publicanis, muneribus et oneribus*, in *Tractatus universi iuris*, XII, fol. 84v, n. 208.

<sup>98</sup> Decio, fol. 188r, n. 15: «quia potest quis creari civis absque onore, ut notat Bartolus in l. 1. ad Munic.». Bartolus, to D. 50. 1. 1, *Municipem*, *Commentaria*, VI, fol. 149r, n. 17: «Quero utrum statuta que loquuntur de civibus locum habeant in illis civibus qui munera non subeunt». Bartolus's dictum, as Decio was assuredly aware, had been employed in a *consilium* of 1509 by the Florentine jurist Antonio Strozzi, his former student and then colleague at the Pisan *Studio*, in defending the status of Vitale's uncle, Isacco, as an original citizen of Pisa: ASF, Carte Stroziane, 3<sup>rd</sup> ser. 41/14, fols. 253v-255r, 253v: «In primis, Isac potest dici civis pisanus origine propria, quia in dicta civitate natus est, in qua pater eius constituerat domicilium, ut habetur in l. 1. et l. Assumptio, in principio, ff. ad municipalem (D. 50. 1. 1. et 6), et habetur per Bar. in d. l. 1, ubi etiam in fine dicit quod, dato quod non subeat munera, tamen dicitur esse civis, licet forte non deberet vocari tunc municipes ilius loci, quin munera et honora participans». Osvaldo Cavallar and I plan to publish a study of Strozzi's *consilium* and a *consilium* by Giovanni Crotto relating to this case.

became inviting targets of the Florentine tax officials in Pisa. Agapito dell'Agnello was a high-profile Pisan exile who commanded large dowries. Vitale da Pisa's return to Pisa with his bride was a notable social event, while his lavish lifestyle visibly accentuated his megawealth. Yet, unless the officials had commissioned and received supplementary *consilia* supporting their original decision to impose the contract tax (and we have no indication that they did), it is hard to fathom the grounds on which the officials would have refused to accept the jurists' determinations.

Whatever the final disposition of our three cases, the *consilia* I have examined show, first of all, that the Florentine officials who administered Pisa sought to adhere to the rule of law, by relying on the expertise of jurists working in Florence and Pisa, rather than on mandating preferred outcomes, to resolve disputes posing a challenge to Florentine fiscal policies and entailing a potential loss of revenue. The concept of citizenship in late medieval and Renaissance Italy, the *consilia* reveal, was malleable and contestable<sup>99</sup>. The substantive and operative meanings legislators, public officials, and jurists attributed to the designation *civis* were context-dependent and often contradictory, as strikingly revealed in Vitale da Pisa's case. A sine qua non for negotiating these cross-cutting meanings is a firm grasp of *ius commune* interpretive methods and doctrines as well as the intricacies of local political and institutional contexts.

Finally, the *consilia* offer instructive insights into the multijurisdictional puzzles that resulted in the fifteenth and early sixteenth centuries when native citizens established legal domicile and acquired citizenship in foreign jurisdictions. Matters became further tangled, as in the case of Vitale da Pisa, who acquired citizenship in Florence which had superior jurisdiction over his native city. Wherever they traveled, citizens remained in principle subject to the jurisdiction of their hometowns, but not with respect to the *gabella dei contratti*, which in compliance with *ius commune* doctrines and rules was payable in the place where the contract was formalized and performed. That explains why the jurists were almost unanimously and straightforwardly opposed to «long-arm» laws imposing taxes on contracts executed by citizens in foreign jurisdictions.

<sup>99</sup> This point similarly applies to the early modern period. See A. De Benedictis, *Citizenship and Government in Bologna (Sixteenth-Seventeenth Centuries)*. *Privilege of Citizenship, Right of Citizenship, Benefice of the 'Patria', Honor of the Magistrates*, in *Privileges and the Rights of Citizenship: Law and the Juridical Construction of Civil Society*, ed. J. Kirshner and L. Mayali, Berkeley 2002, pp. 127-146.



## ***Recursos navales para la guerra en los reinos de España (1252-1504)***

de Miguel Ángel Ladero Quesada

La guerra naval tuvo mayor importancia durante la Baja Edad Media que en tiempos anteriores, como consecuencia del aumento de número y la diversificación de tipos de naves, acompañado por la mejora en los medios y técnicas de navegación y en el armamento, especialmente desde que se pudo instalar artillería de pólvora en los barcos. Sin embargo, aquella forma de guerra estuvo limitada siempre porque era muy costosa y, en consecuencia, por la extrema dificultad de mantener fuerzas permanentes, de modo que, aunque a veces se formaron y mantuvieron escuadras con fines exclusivamente bélicos, sobre todo de galeras, en otras muchas ocasiones no hubo una marina de guerra estable, sino más bien barcos de uso mercantil que se contrataban y adaptaban para su empleo militar<sup>1</sup>.

La importancia de la marina creció porque muchas operaciones bélicas, aunque se desarrollaran en tierra, integraban el transporte y desembarco de tropas y suministros, o el bloqueo de costas, y, sobre todo, porque comenzó a

<sup>1</sup> Hay muchos datos en trabajos de los siguientes autores: C. Fernández Duro, *La marina militar de Castilla desde su origen y pugna con la de Inglaterra hasta la refundición en la Armada española*, Madrid 1890-1894, 2 vol. y *Armada española desde la unión de los reinos de Castilla y Aragón*, Madrid, 9 vol. (nueva edición); F.J. Salas, *Marina española de la Edad Media*, Madrid 1925-1927; J. Guillén Tato, *Historia marítima española*, Madrid 1961, 2 vol.; A. Cuevas Torres-Campo, *Historia de la marina de guerra española*, Madrid 1984; R. Cerezo Martínez, *La proyección marítima de España en la época de los Reyes Católicos*, Madrid 1991; J. Cervera Peri, *El poder naval en los Reinos hispánicos (la marina en la Edad Media)*, Madrid 1992. Vid. también M.Á. Ladero Quesada, *L'Espagne et l'Océan à la fin du Moyen Âge*, en *L'Europe et l'Océan au Moyen Âge. Contribution à l'Histoire de la Navigation*, Paris 1988, p. 115-130; M.Á. Ladero Quesada, *Las Indias de Castilla en sus primeros años. Cuentas de la Casa de la Contratación (1503-1521)*, Madrid 2008; E. Aznar Vallejo, *Navegación atlántica y orígenes del Estado Moderno. El papel del Almirantazgo*, en *Navegación marítima del Mediterráneo al Atlántico*, ed. A. Malpica, Granada 2001, p. 59-95; E. Aznar Vallejo, *Los itinerarios atlánticos en la vertebración del espacio hispánico. De los Algarbes al Ultramar oceánico*, en *Itinerarios Medievales e identidad hispánica. XXVII Semana de Estudios Medievales de Estella*, Pamplona, Gobierno de Navarra 2001, p. 47-82; E. Aznar Vallejo, *La organización de la flota real de Castilla en el siglo XV*, en *La Península Ibérica entre el Mediterráneo y el Atlántico. Siglos XIV-XV*, Sevilla-Cádiz 2006, p. 323-339; E. Aznar Vallejo, *La guerra naval en Castilla durante la Baja Edad Media*, en «En la España Medieval» (Universidad Complutense), 32 (2009), p. 167-192; *Guerra marítima, corso y piratería*, en «Estudios marítimos del País Vasco. Itsas-Memoria», 5 (2006); S. Monteiro, *Batalhas e combates da marinha portuguesa, 1139-1521*, Lisboa 1989.

haber políticas estables de control de rutas y espacios marítimos, lo que obligaba a veces a presentar batallas navales o afrontar situaciones de guerra más o menos duraderas. Así, el dominio del mar jugó a favor de algunos países, como Venecia y Génova, Aragón, Castilla o Inglaterra, y en contra de los que no lo poseyeron o no lo integraron adecuadamente en su capacidad bélica, como parece que ocurrió en Francia, o bien carecían de un poder monárquico capaz de aprovechar en su servicio capacidades navales tan fuertes como fueron, por ejemplo, las de la Hansa alemana.

Muchos de los conflictos bélicos en que se vieron envueltos los reinos hispánicos durante los últimos siglos medievales incluían la capacidad de defender las propias costas y la pugna por el dominio de rutas y ámbitos de navegación en el Mediterráneo occidental e incluso oriental, en el caso de la Corona de Aragón o, en el de Castilla, el control del Estrecho de Gibraltar, las rutas del comercio en el Cantábrico, Canal de la Mancha y Mar del Norte o, ya en el siglo XV, también en la costa norteafricana y las islas atlánticas.

### 1. Corona de Aragón

Los intereses marítimos de los reyes de Aragón y condes de Barcelona en el Mediterráneo eran consecuencia de la misma situación de sus dominios y del desarrollo mercantil de Barcelona y otros puertos ya desde los siglos XI y XII, cuando el *usatge* titulado *omnes quippe naves* situaba bajo protección del conde barcelonés a los navíos que entraran o salieran de Barcelona o de puertos situados entre el cabo de Creus y Salou. La conquista de Mallorca en 1229-1230 se llevó a cabo cuando la marina catalana había llegado a tener una potencia considerable, después de un siglo de desarrollo, y fue contemporánea de la expansión de los intereses mercantiles en el Magreb mediterráneo, en los que pronto acompañaron los marinos mallorquines y valencianos a los catalanes. Barcelona contó con atarazanas reales desde tiempos de Jaime I (1214-1276), trasladadas a otro emplazamiento y ampliadas por Pedro IV a mediados del siglo XIV, con capacidad para construir y armar una treintena de galeras a la vez, y también hubo atarazanas fijas en Tortosa, Valencia y Mallorca, aparte de otros muchos astilleros temporales en las playas o *riberas*, aptos para la construcción de barcos menores.

El apogeo del poder naval se alcanzó durante el siglo y medio que transcurrió entre la intervención en Sicilia del año 1282, el desarrollo del comercio y de las expediciones al Levante mediterráneo, la conquista de Cerdeña en 1323-24 y los enfrentamientos con Génova en los decenios siguientes, así como los apoyos a Castilla en las guerras en torno al Estrecho de Gibraltar, hasta las empresas de Alfonso V en Nápoles en los años treinta del XV. Fue frecuente la formación de armadas con 30 a 50 galeras más barcos de transporte y apoyo, según se deduce de algunos ejemplos<sup>2</sup>:

<sup>2</sup> Todos los ejemplos sobre composición de armadas proceden de M.Á. Ladero Quesada (coord.), *Historia Militar de España. 2. Edad Media*, Madrid 2010, capítulo quinto.

1324	Conquista de Cerdeña	53 galeras y 20 cocas
1420	Primera intervención de Alfonso V en Nápoles	30 galeras y 14 naves
1424	Segunda intervención de Alfonso V en Nápoles	42 galeras y 12 naves
1431	Tercera intervención de Alfonso V en Nápoles	27 galeras y 10 naves

El oficio de almirante, para el mando de las armadas del rey de Aragón, existía ya en los años sesenta del siglo XIII, aunque hubo antecedentes de hecho sin tal titulación. La expedición a Tierra Santa que emprendió Jaime I en 1269, y que no pudo mandar en persona, estuvo dirigida por su hijo bastardo Pedro Fernández y por Ramón Marquet, que tuvo el cargo de almirante, como también lo fue Roger de Lauria durante las guerras de Pedro III en Sicilia y Cataluña. En la conquista de Cerdeña destacó la actuación del almirante Bernardo de Boixadors, en 1324, y en la guerra sarda de 1339 la de Guillén de Cervelló, que actuó como capitán general, cargo que también ostentó el Almirante Poncio de Santapau en el enfrentamiento con Génova durante el año 1352. Por los mismos años, era habitual el envío de galeras para apoyar a los reyes de Castilla en las luchas en el Estrecho de Gibraltar: en febrero de 1340, por ejemplo, murió en una de aquellas operaciones el almirante Jofre Gilabert de Cruilles<sup>3</sup>. El oficio de almirante se vinculó desde 1357 a la persona y descendientes de Hugo Folch, primer conde de Cardona, pero, por los mismos años, Pedro IV creó el cargo de capitán general, nombrado por el rey para cada ocasión, sin dependencia del almirante, que acabaría siendo oficio más bien honorífico. Así, en 1354 era capitán general de la armada Bernardo de Cabrera, que compuso unas *Ordinacions sobre lo feyt de la mar* por encargo regio.

La recluta de marinería en cada ocasión era un asunto importante, por lo que se reguló el funcionamiento desde 1359 de puntos de reclutamiento llamados *taules d'acordar* en los principales puertos. Además, era habitual la presencia de tres vicealmirantes, por Cataluña, Valencia y Mallorca, al mando de las respectivas zonas marítimas o de las armadas que procedían de ellas y que se integraban en la flota común durante algunas guerras, e incluso las ciudades de Barcelona y Valencia podían nombrar almirantes y capitanes de las flotas que armaban ellas mismas, con jurisdicción sobre sus tripulantes, si no estaban integradas en la armada real. Desde el reinado de Alfonso V, la continuidad en el oficio dio lugar a la formación de dinastías de varias generaciones de capitanes generales de las armadas: Perellós, Requesens, Vilamarí... pero en todos los casos fueron marinos profesionales en activo, que ejercían el cargo por nombramientos regios temporales.

<sup>3</sup> Sobre los almirantes de la Corona de Aragón, A. García Sanz, *Historia de la marina catalana*, Barcelona 1977; R. Gallofré y J. Trenchs, *Almirantes y vicealmirantes de la Corona de Aragón (1118-1462)*, en *Miscellania de Textos Medievals*, Barcelona 1989, 5, p. 117-194; F. Soldevila, *L'almirall Ramon Marquet*, Barcelona 1953; E. Fort i Cogul, *Roger de Llúria*, Barcelona 1966.

## 2. Castilla

El desarrollo más antiguo de la actividad naval castellana ocurrió en los puertos del norte, cántabros y vascos, a partir de los últimos decenios del siglo XII, momento en el que ya Alfonso VIII (1158-1214) legisló sobre casos de naufragio, pero la utilización de aquellos recursos para las operaciones de guerra corresponde al reinado de Alfonso X, si exceptuamos algún precedente durante las operaciones llevadas a cabo en Cartagena (1246) y durante el asedio de Sevilla (1247-1248). Alfonso X reconstruyó en esta ciudad los astilleros o *atarazanas* de época almohade, estableció un *barrio de la mar* para la gente del oficio, con *alcalde* propio que aplicara el *fuero de la mar*, dispuso que hubiera diez *cómitres*, a los que otorgó *honra* de caballeros y mayores bienes, que deberían mantener y mandar otras tantas galeras, con cien hombres cada una. Además, el rey creó el oficio de *Almirante*, del que conocemos titulares a partir de 1254, inspirándose en precedentes genoveses y sicilianos, y reguló sus atribuciones supremas en la dirección de la guerra por mar en nombre del rey, así como otros aspectos de la actividad naval, en los conocidos textos de la *Partida* segunda (títulos IX, XXIV y XXVI), donde distingue entre las grandes flotas, *que es así como hueste mayor*, y las armadas menores, equivalentes a *cabalgadas*.

Además, Alfonso X estableció en 1279 la Orden Militar, la de Santa María de España, para los *fechos de la mar*, pero sólo duró un año porque no había recursos para mantener flotas permanentes. La Orden tendría sus bases en Cartagena, El Puerto de Santa María, La Coruña y San Sebastián, lo que demuestra una clara visión estratégica sobre los puertos adecuados para la actividad en cada sector. Pocos años más tarde, la iniciativa de autoridades locales, armadores y marinos de los puertos cántábricos dio origen a otra institución más duradera, la Hermandad de las marismas o de la marina de Castilla, establecida en mayo de 1296 con el propósito de defender los intereses comunes de la navegación y el comercio que se practicaba en el Golfo de Vizcaya y Canal de la Mancha; formaron parte de ella las villas portuarias de San Vicente de la Barquera, Santander, Laredo, Castro Urdiales, Bermeo, Guetaria, San Sebastián y Fuenterrabía, más Vitoria. La Hermandad tuvo una actividad intermitente, aunque siempre de importancia, y fue modelo para otras iniciativas conjuntas llevadas a cabo por villas y marinos del Cantábrico castellano durante toda la baja Edad Media<sup>4</sup>.

La potencia naval castellana se desarrolló durante las guerras en el Estrecho de Gibraltar, entre 1275 y 1350, basándose en las galeras castellanas armadas en las atarazanas de Sevilla y en los puertos cántábricos, complementadas con la contratación temporal de galeras genovesas y catalanas a un precio muy elevado, hasta formar flotas de dos a tres docenas de galeras más barcos de apoyo<sup>5</sup>:

<sup>4</sup> F. Morales Belda, *La Hermandad de las Marismas*, Barcelona 1974; C. Álvarez de Morales, *Las Hermandades, expresión del movimiento comunitario en España*, Valladolid 1974.

<sup>5</sup> Las galeras genovesas se contrataban a finales del siglo XIII a razón de 500 *doblas* al mes, más

1279	Primer asedio de Algeciras	24 galeras y un máximo de 80 "naves"
1285	Defensa del paso del Estrecho	100 naves (entre ellas, al menos 20 galeras)
1339	Defensa del paso del Estrecho de Gibraltar	30 galeras (10 catalanas)
1340	Defensa del paso del Estrecho de Gibraltar	27 galeras (10 catalanas)
1342	Segundo asedio de Algeciras	43 galeras (15 genovesas)
1343	Segundo asedio de Algeciras	53 galeras (10 catalanas) y 30 "naves" cantábricas

Algunos marinos genoveses que acudieron al mando de sus galeras fueron nombrados Almirantes de Castilla, como Benedetto Zaccaria en tiempos de Sancho IV (1284-1295) o Egidio y luego su hijo Ambrosio Bocanegra entre 1341 y 1372, que recibieron el señorío de Palma del Río, en el valle medio del Guadalquivir (Palma *de micer Gilio*). Los demás almirantes fueron naturales de Castilla, como Alfonso Jofre Tenorio, entre 1314 y 1340.

Las armadas reales castellanas llegaron a su apogeo durante las guerras peninsulares y atlánticas de los años 1356 a 1388, en las que hubo combates y acciones de bloqueo, desde el Levante peninsular y la desembocadura del río Guadalquivir hasta el Canal de la Mancha, dirigidas sucesivamente por los almirantes Ambrosio Bocanegra y Fernán Sánchez de Tovar, y todavía fue importante el papel de las galeras reales de Sevilla, acompañadas por barcos que se fletaban en la costa cantábrica, durante las guerras de los primeros decenios del siglo XV:

1370	Guerra contra Portugal	16 a 20 galeras y 24 "naves"
1372	Alianza con Francia. Batalla de La Rochelle	12 galeras
1375	Alianza con Francia. Expedición al Támesis	20 galeras
1406	Guerra contra Granada. Previsión inicial	30 galeras y 50 "naves"
1408	Guerra contra Granada. Vigilancia del Estrecho	15 galeras, 4 <i>leños</i> , 22 "naves"
1410	Guerra contra Granada	15 galeras, 5 <i>leños</i> , 20 <i>vallineles</i> , 6 "naves"
1429	Guerra contra Aragón	25 galeras, 5 <i>vallineles</i> y 30 "naves"
1431	Guerra contra Granada	20 galeras. Varias "naves" grandes

el abastecimiento de *bizcocho* (la *dobla* es una moneda de oro de 4,60 g. de peso y ley superior a 22 quilates). En 1339 el costo era de 800 florines (moneda de oro de 3,5 g.), y en 1358 se elevó a 1.000 doblas, en circunstancias difíciles para Pedro I, rey de Castilla (M.Á. Ladero Quesada, *Fiscalidad y poder real en Castilla. 1252-1369*, Madrid 1993, p. 335-336).

Pero la guerra naval tomó otras formas, coincidiendo con el empleo preferente de los barcos de vela *redondos*, con la contratación de buques para cada caso y con la patrimonialización del oficio de almirante, en manos del linaje de los Enríquez desde 1405 hasta 1705, y su frecuente sustitución por capitanes y otros mandos nombrados por los reyes para llevar a cabo operaciones concretas.

Sin embargo, los almirantes conservaron la preeminencia honorífica y aún dirigieron en persona operaciones de guerra entre 1407 y 1410, en 1429-1430<sup>6</sup>, en 1481<sup>7</sup>, o, parcialmente, en 1496, con ocasión del viaje de la infanta Juana a Flandes: en este caso, el almirante don Fadrique Enríquez recibió una *ayuda de costa* de 7.000 *maravedíes* al día (unos 19 ducados de oro) que mostraba bien la alta calidad de su persona y función<sup>8</sup>. Además, los almirantes mantuvieron su jurisdicción superior en todo lo relativo a *fecho de la mar*, para lo que disponían de tribunal propio en Sevilla, reglamentado por los *ordenamientos* de 1302 y 1309, cobraban ciertos derechos sobre el comercio marítimo que se llevaba a cabo en la ciudad y el río Guadalquivir, hasta la desembocadura en Sanlúcar de Barrameda, y también les correspondía la séptima parte del botín obtenido en guerras y *cabalgadas* navales. El ejercicio de aquellas atribuciones fue mucho más difícil y esporádico en los puertos cantábricos y, desde luego, ya no se extendió a las navegaciones hacia Canarias y América desde finales del siglo XV<sup>9</sup>.

El cargo de almirante también existió en Portugal desde el último decenio del siglo XIII y pasó a manos del genovés Manuel Pessanha desde 1317 hasta 1344, sucedido por su hijo Lanzarote hasta 1383. Con la extinción de linaje, el oficio se otorgó a otras personas, sin carácter hereditario, pero era ya honorífico y había perdido sus funciones, salvo algunas de las judiciales, de modo que la descripción contenida en las *Ordenações Afonsinas* (1446) se refiere más bien a un modelo teórico.

<sup>6</sup> En 1430 se reguló por ordenanza la jurisdicción del almirante en su tribunal situado en «las gradas de Sevilla», y los derechos sobre las ganancias que hiciera la armada: «a de aver el rey los dos tercios y el almirante uno». Además, en las armadas reales correspondía al rey nombrar contador y escribano de la armada, y al almirante el alguacil. (Archivo General de Simancas [A.G.S.], Contaduría del Sueldo, primera serie [C.S.], leg. 53, doc. 40).

<sup>7</sup> Don Francisco Enríquez, hermano del Almirante, estuvo al frente de la expedición de 70 naos y carabelas enviada en 1481 en socorro de Otranto. Hernando del Pulgar, *Crónica de los Reyes Católicos*, ed. J. de M. Carriazo, Madrid 1943, cap. CXIX.

<sup>8</sup> M.Á. Ladero Quesada, *La armada de Flandes. Un episodio en la política naval de los Reyes Católicos (1496-1497)*, Madrid 2003. El *maravedí* era una moneda de cuenta. Desde 1480, un ducado de oro equivalía en Castilla a 375 m., aunque en Sicilia y Nápoles, donde el oro era más caro, los pagadores de los Reyes Católicos lo estimaban en 397,50. Un *real* castellano de plata (3,48 g.) equivalía a 31 mrs. y, desde 1497, a 34.

<sup>9</sup> F. Pérez Embid, *El Almirantazgo de Castilla hasta las Capitulaciones de Santa Fe*, Sevilla 1944; M.Á. Ladero Quesada, *El Almirantazgo de Castilla en la Baja Edad Media. Siglos XIII a XV*, en *La institución del almirantazgo en España*, Madrid 2003, p. 57-82 y M.Á. Ladero Quesada, *Las Indias de Castilla*, op. cit.; J.M. Calderón Ortega, *El Almirantazgo de Castilla. Historia de una institución conflictiva*, Alcalá de Henares 2003.

### 3. Los cambios del siglo XV. Tipos de barcos

Las atarazanas del rey en Sevilla todavía tenían a su servicio hacia 1422 de 400 vecinos de la ciudad *francos* de impuestos directos para atender a los oficios relacionados con la construcción naval. Disponían además de *moros* cautivos adscritos a su servicio y conservaban instalaciones capaces para reparar o construir simultáneamente hasta 20 galeras y dos *leños* o naos ligeras de menor tamaño. Para la guerra de 1430 se armaron 15 galeras en Sevilla<sup>10</sup> pero aquellas actividades debieron cesar poco después aunque las atarazanas conservaran otras funciones como almacén de material, aparejos y armamento, continuara habiendo vecinos *francos de las atarazanas* y se siguiera reservando para su aprovisionamiento de madera los robledales de la Sierra de Aracena, lo que posibilitaría su uso como astillero si fuera preciso.

Y es que la importancia de cada tipo de barco para las operaciones navales había cambiado con el paso del tiempo. La galera era todavía el barco de guerra más frecuente en los siglos XIII y XIV, secundado por sus versiones menores, la galeaza y la fusta. Galeras, galeazas, fustas y otros barcos largos de remo y vela, como los *bergantines* y *vallineles*, estaban mejor adaptados a las condiciones de navegación en el Mediterráneo, y eran especialmente útiles, por su rapidez y movilidad, para la vigilancia de costas y rutas, la persecución y abordaje de navíos enemigos; jugaban un papel notable en las operaciones de bloqueo de puertos, pero su utilidad era mucho menor para las de transporte de tropas, armamento y materiales porque las tripulaciones y aparejos ocupaban en ellos mucho mayor espacio relativo.

Pero ya en el siglo XIV y, sobre todo, en el XV, los barcos *redondos* de vela, de origen atlántico, alcanzaron mayor utilidad militar, debido a la adaptación de su velamen, con uso de la vela latina, a su capacidad de navegación, carga y pasaje, a lo que se añadió, ya entrado el siglo XV, la posibilidad de instalar artillería a bordo con eficacia en los combates navales e incluso en los ataques a tierra. Aquellos barcos desarrollaban funciones muy variadas y su coste y mantenimiento eran más baratos, de modo que las carracas, naos y carabelas predominaron en la formación de flotas y otras operaciones, aunque las galeras siguieron siendo el buque de guerra por excelencia y conservaron funciones específicas donde era más ventajoso su empleo.

Las *cocas*, que fueron el primer tipo de aquellos navíos *redondos*, se utilizaron ya desde finales del siglo XIII, así como los *leños* o *lenys* y naves similares, en el tráfico mercantil y en formaciones de apoyo a las galeras pero<sup>11</sup>,

<sup>10</sup> Y otras cinco galeras, 30 naos y cinco «valleneres» en Santander, además de repartirse 3.600 peones galeotes entre los pueblos de behetría de las merindades de Castilla, según era uso habitual (AGS, CS, 1ª serie, leg. 53, doc. 40).

<sup>11</sup> M.D. López Pérez, *La Corona de Aragón y el Magreb en el siglo XIV (1331-1410)*, Barcelona 1995, p. 269-316 explica cómo estos barcos “redondos” copaban el tráfico mercantil catalán en el Mediterráneo del siglo XIV: *cocas*, naves, *leños* y barcas representan el 95 por 100 de los viajes estudiados, mientras que los *pàmfiles* o pánfilos, especie de galera mercante de manga ancha, el tres, las galeotas el uno y las galeras sólo el 0,25 por 100. Mismas conclusiones en D. Coulon,

más adelante, se observa en las flotas del último cuarto del siglo XV y comienzos del XVI formadas por los Reyes Católicos, cómo las galeras, pocas en número, suelen proceder de Cataluña, donde se mantenía la tradición constructora, y se las empleaba en labores muy precisas, especialmente de vigilancia de costa y ataque a barcos de vela que intentan burlarla. Por entonces, lo principal de las flotas estaba formado por barcos *redondos*: *naos* y *carabelas*, con algunas grandes *carracas*, más útiles todas ellas para la navegación de altura, especialmente en el Atlántico, para mantener bloqueos y transportar tropas y armamento, debido a su mayor capacidad de carga y menor número relativo de tripulantes (lo habitual era entre 3 y 5 marineros por *tonel* de aforo), además de montar gran número de piezas de artillería, indispensables en las nuevas formas de guerra naval<sup>12</sup>.

Las naos de tipo medio, que eran las más utilizadas, desplazaban entre 170 y 300 *toneles* y las carabelas entre 60 y 100. Las carracas arqueaban de 600 a 1.000<sup>13</sup>. En las armadas de los Reyes Católicos, las *naos* eran casi todas de construcción y procedencia vasca y cántabra – en cuyos puertos había numerosos astilleros privados desde tiempos anteriores – mientras que la mayoría de las *carabelas* eran andaluzas. Las *carracas* se solían contratar en Génova, aunque solía haber también alguna vascongada, pero no tuvo éxito una pragmática regia promulgada en noviembre de 1495 para promover la construcción de estos grandes barcos, por encima de 600 *toneles*, otorgando un *acostamiento* o sueldo a quienes los construyeran que llegaba a los 100.000 *maravedíes* al año para las embarcaciones de 1.000 *toneles*, con el compromiso de sus dueños de tenerlas disponibles cuando los reyes quisieran contratarlas<sup>14</sup>.

La ventaja de estos cambios se expresa también en la teoría expuesta en dos escritos o *memoriales*, uno dirigido por Diego de Valera al rey cuando comenzaba la guerra de Granada, en 1482, y otro, de autor anónimo, enviado a Francisco Jiménez de Cisneros, arzobispo de Toledo, hacia 1505, coincidiendo con los preparativos para enviar armadas de conquista al norte de

*Barcelone et le grand commerce d'orient au Moyen Âge: un siècle de relations avec l'Égypte et la Syrie-Palestine (ca. 1330-ca. 1430)*, Madrid-Barcelona 2004; grandes cocas mercantes catalanas de mediados del siglo XIV podían desplazar hasta 2.700 o 3.000 *salmas* (de 750 a 800 toneladas métricas); A. García i Sanz y N. Coll i Julia, *Galeres mercants catalanes dels segles XIV i XV*, Lérida 1994.

<sup>12</sup> J.L. Casado Soto, *Guerra naval, táctica, logística y estrategia*, en *Historia de la ciencia y de la técnica en la Corona de Castilla*, Valladolid 2002, II; R. Hattendorf, W. Hunger, eds.: *War at Sea in the Middle Ages and Renaissance*, Woodbridge 2002; C. Cipolla, *Cañones y Velas*, Barcelona 1967.

<sup>13</sup> El *tonel* castellano o vizcaíno equivalía a algo más de 1.000 l. (Ladero Quesada, *Las Indias de Castilla*, op. cit., p. 90).

<sup>14</sup> AGS, Libros de Cédulas de la Cámara de Castilla, 2-2, f. 119v-120r. Pragmática dada en Alfaro a 10 de noviembre de 1495. Previamente hubo un informe del secretario real Hernando de Zafra que proponía primar la construcción de naos a partir de 400 toneles y dar también “acostamiento” a las fustas y galeras que tuviesen más de 16 bancos de remeros (M.Á. Ladero Quesada, *Hernando de Zafra, secretario de los Reyes Católicos*, Madrid 2005, doc. 8, p. 165-167). Ya se había ensayado una medida legal semejante en 1435, reinando Juan II.



África. Valera estimaba que para la vigilancia eran precisas al menos dos grandes *carracas* de unos 500 *toneles* de capacidad, dos *vallineles* de 70 u 80 y media docena de *carabelas* con velas latinas, más cuatro *galeotas* en verano, por ser estos dos últimos tipos de barco los más adecuados para capturar a las pequeñas embarcaciones musulmanas, *que con el primero levante traviésan e non pueden rescibir daño de los gruesos navíos*. Estos se destinarían a vigilar costas y evitar el contrabando y envíos de víveres y pertrechos desde el N. de África en barcos genoveses, venecianos o de otros mercaderes europeos en general, pero Valera no recomendaba la contratación de *galeras*, por sus malas condiciones marineras en aquellas aguas, especialmente en invierno, cuando más necesaria era la vigilancia. El memorial de 1505 también ponderaba las ventajas de las carabelas porque se refería a una armada de transporte y desembarco de tropas, aunque daba también importancia a las galeras y galeotas<sup>15</sup>.

Las técnicas de combate propiamente marinas consistían, cuando se trataba de galeras, en espolonear y dañar la nave enemiga inutilizándola aunque sin destruirla, a poder ser, porque era una presa valiosa. Por eso mismo, era frecuente utilizar también otros procedimientos que condujeran a trabar combate cuerpo a cuerpo, como en tierra, para causar el mayor número posible de bajas al contrario. Las flotas solían adotar previamente a las batallas algún tipo de formación, a menudo con las galeras de ataque en primera línea, las naves gruesas en el centro y las menores y de transporte detrás; las galeras podían formar también en semicírculo, y los barcos *redondos* navegar en columna, si iban solos, para “ganar el barlovento” al enemigo.

Primeramente se aplicaban tácticas de aproximación: lanzamiento de *fuego griego* o de pellas de cal viva utilizando “trabucos” de resorte, o bien con bombardeo de artillería ya en el siglo XV y, en los últimos momentos previos al abordaje, con tiro de ballesteros y arqueros -las galeras de los reyes de Aragón solían embarcar grupos de 30 a 40 ballesteros cada una- y empleo de arpones y “rajavelas” para dañar el velamen y jarcia. Luego, las formaciones navales se descomponían en combates singulares, con sangrientos abordajes al arma blanca que requerían la acción de los muchos *hombres de armas* o infantería embarcada aunque también participaran en ellos las tripulaciones de marineros, grumetes y *pajes*, al ser una situación límite, dada la especial dureza de la guerra en el mar<sup>16</sup>.

Parece que hasta el siglo XVI no se escribieron libros donde se describen operaciones de guerra naval como el de Alonso de Chaves en Castilla (*Espejo de navegantes*, hacia 1535) o, en especial, el de Fernando Oliveira en

<sup>15</sup> Diego de Valera, *Epístolas y otros varios tratados*, Madrid 1878, epístolas XVI y XVIII; M. Jiménez de la Espada, *La guerra del moro a fines del siglo XV*, Ceuta 1940.

<sup>16</sup> Casado Soto, *Guerra naval*, op. cit.; Cervera Pery, *El poder naval*, op. cit. No hay que confundir a estos peones *hombres de armas* embarcados con la caballería pesada de los ejércitos de tierra, que recibe el mismo nombre en castellano: *lanzas hombres de armas*.

Portugal (*Arte da guerra no mar*, 1555)<sup>17</sup>. Las ordenanzas navales de los siglos XIV y XV no suelen ocuparse mucho de técnicas de combate sino más bien de aspectos de organización y disciplina. Así, las dispuestas por el almirante don Fadrique Enríquez para la flota de 1430 se refieren al nombramiento por el almirante del capitán mayor de la flota y de los demás capitanes y maestres, al armamento, tomado en parte del alcázar de Sevilla, al avituallamiento con *bizcocho* elaborado en los *hornos de vizcocho* reales de la ciudad, a la «distribución de galeras, señales, armonización de velas ... vigilancia sobre flotas enemigas, reparto del botín, orden que debe guardarse en los ataques, disciplina a bordo» (E. Aznar). Las de 1496, para la armada que llevó a la infanta Juana a Flandes, señalan como competencia del almirante el nombramiento de los capitanes y oficiales de la armada, pero no de los oficios de contadores, pagadores y escribanos, la designación de la persona que tendrá a su cargo la guarda y distribución de los mantenimientos y la inspección de la provisión de agua en cada barcos. El almirante determinaría, antes de zarpar y junto con los maestres y capitanes, la disposición del orden de marcha de la armada y la previsión del orden de combate, las operaciones de exploración y la vigilancia de los fuegos encendidos a bordo con especial cuidado para la guarda de la pólvora.

#### 4. Las armadas de los Reyes Católicos. Años 1475 a 1504

Las nuevas circunstancias de las armadas reales se observan ya claramente en las expediciones a Guinea organizadas por los Reyes Católicos durante la guerra con Portugal (1475- 1479) y en la guerra de conquista de Granada (1482-1492), y continúa en la formación de armadas desde 1493, ya con otros objetivos. Los reyes ordenaban la contratación de barcos de propiedad aparticular pero los delegados regioes mantenían el control sobre el conjunto de la operación, como fue el caso del contador mayor Alonso de Quintanilla en varias ocasiones o de don Alfonso de Fonseca en Sevilla entre 1493 y 1502, o de Alonso de Cotes, corregidor de Burgos, Juan de Arbolancha y Pedro de Zafra, en la organización de la armada de 1496 con destino a Flandes: son estos delegados quienes acuerdan con los dueños de los barcos el importe de los fletes, sueldos y mantenimiento de tripulaciones, el armamento que han de llevar los barcos y tiempo de duración del servicio; nombran capitanes generales y capitanes de barco y reciben pleito-homenaje de ellos; designan oficiales administrativos a bordo, que actúan en nombre de los Contadores Mayores y del Escribano Mayor de los reyes: escribanos, contadores y pagadores.

<sup>17</sup> Alonso de Chaves, *Quatri partitu en Cosmografía práctica, y por otro nombre: espejo de navegantes* [hacia 1535], ed. P. Castañeda Delgado, M. Cuesta Domingo y P. Hernández Aparicio, Madrid 1983: Libro tercero, tratado tercero, capítulos quinto y sexto, p. 237-248. Fernando Oliveira: *Arte da Guerra no mar* [1555], Lisboa 1983.

Lo mismo sucedió en las armadas enviadas a Sicilia y Nápoles: en la de 1495 tuvo el mando naval como capitán general don Galcerán de Requesens, conde de Palamós y de Trevento, mientras que Gonzalo Fernández de Córdoba ejercía el de las tropas de tierra. En 1500, Fernández de Córdoba reunió ambos y fue, por lo tanto, *capitán general de la armada de la mar*, hasta que, a mediados de 1502, los reyes designaron para este oficio al experto marino catalán Bernat de Vilamarí con 1.000 ducados al año de salario – ya tenía otros tantos como capitán de tres galeras al servicio regio –, y regularon el funcionamiento de la armada mediante unas ordenanzas, en marzo de 1503, que vinieron a sumarse a las dadas en 1500 sobre pagos y toma de cuentas. Así, la sistematización de normas y procedimientos iba pareja en las armadas con lo que ocurría por aquellos mismos años con las *Guardas Reales*, la artillería y otras tropas de tierra al servicio permanente de los reyes, que también recibieron ordenanzas en 1495 y 1503.

Al mismo tiempo, los monarcas autorizaron y regularon también las acciones de corso y el reparto del botín obtenido, con reserva para su Hacienda del *quinto real*, todo ello según los procedimientos habituales desde tiempos anteriores<sup>18</sup>. Cuando se trataba de operaciones de corso contra países cristianos, podían exigir fianzas, para prevenir ataques indebidos o indemnizar a quienes los sufrieran, aunque también daban licencias generales contra barcos de países con los que hubiera guerra abierta. En el caso de expediciones contra barcos y tierras de dominio islámico, la autorización era “genérica y tácita”: aquellas operaciones solían tener como objetivo las costas y puertos norteafricanos, su base eran los de la Andalucía atlántica y la carabela el barco utilizado preferentemente, por su mayor ligereza y maniobrabilidad y por su capacidad para transportar hombres, carga, artillería y caballos, aunque para esto último se solía contar también con un tipo de barco especializado, la *tafurca*<sup>19</sup>.

He aquí algunos ejemplos de composición de armadas:

1476: expedición a Guinea capitaneada por Charles de Valera: tres naos vizcainas y nueve carabelas andaluzas<sup>20</sup>.

<sup>18</sup> Tiene gran interés el contenido y bibliografía del libro de A. Unali, *Mariners, pirates i corsaris caalanas a l'època medieval*, Barcelona 1986, sobre el corso y la piratería en la Cataluña bajo-medieval; los trabajos reunidos por M.T. Ferrer i Mallol, *Corsarios castellanos y vascos en el Mediterráneo medieval*, Barcelona 2000. A tener en cuenta la investigación anterior de L. Adão da Fonseca, *Navegación y corso en el Mediterráneo occidental. Los portugueses a mediados del siglo XV*, Pamplona 1978.

<sup>19</sup> E. Aznar Vallejo, *Navegación atlántica y orígenes del Estado Moderno. El papel del Almirantazgo*, en *Navegación marítima del Mediterráneo al Atlántico*, ed. A. Malpica, Granada 2001, p. 59-95; E. Aznar Vallejo, *La guerra de allende. Los condicionamientos mentales y técnicos de la nueva frontera*, en *Guerra y diplomacia en la Edad Media*, Pamplona 2005, p. 83-115. R. Cerezo Martínez, *La proyección marítima de España en la época de los Reyes Católicos*, Madrid 1991.

<sup>20</sup> E. Aznar Vallejo, *La expedición de Charles de Valera a Guinea. Precisiones históricas y técnicas*, en «En la España Medieval», 25 (2002), p. 403-423. P. Rufo Isern, *La expansión peninsular por la costa africana. El enfrentamiento entre Portugal y Castilla (1475-1480)*, en *Congresso Internacional Bartolomeu Dias e a sua época*, Oporto 1989, III, p. 59-79.

1478: expedición a Guinea mandada por Juan Boscán y conquista de Gran Canaria. 35 barcos entre las dos flotas.

1475-1482: cuatro galeras guardacostas en Andalucía, 1475-1482: dos castellanas (Álvaro de Nava) y dos catalanas (conde de Cardona).

1486: flota de 12 carabelas enviada a Nápoles en ayuda de Ferrante I, que contrató además galeras catalanas de Bernat de Vilamarí.

1487: 6 galeras catalanas, muchas naos y carabelas castellanas en el bloqueo de Málaga.

1493: la *armada de Vizcaya*, formada por una carraca de 1.000 toneles, una nao mayor de 405, dos medianas de 200 y una menor de 100<sup>21</sup>.

1495, flotas enviadas a Sicilia: 1 carraca, 7 naos y 17 carabelas en la primera expedición, al mando del conde de Trevento, y 29 carabelas más en la segunda, mandada por Gonzalo Fernández de Córdoba<sup>22</sup>.

1496, armada de Flandes: 2 carracas genovesas de 1.000 toneles, 15 naos (tres de más de 400 toneles, las demás de en torno a 250 de media), 5 carabelas de 75 toneles y 20 pinazas auxiliares<sup>23</sup>.

1497, septiembre-diciembre, *armada de Levante*, bajo el mando de don Iñigo Manrique, alcaide de Málaga, como capitán general, para perseguir corsarios: 4 carracas, 4 naos, una carabela, 2 bergantines y un balliner.

1500. Armada de *Levante* contra los turcos, en alianza con Venecia (campana de Cefalonia): 73 barcos (6 galeras, 6 fustas, 3 carracas, 32 naos, 22 carabelas, 4 tafurcas).

1502-1504. Armada durante la guerra de Nápoles: 73 barcos como máximo.

1502, armada bajo el mando de don Iñigo Manrique para guardar la costa de Granada y hacer cabalgadas en la costa norteafricana: 11 fustas.

1503, otra con las mismas funciones con Martín Fernández Galindo como capitán general: dos naos de 120 toneles, cuatro carabelas *rasas* con remos, 10 fustas o *galeotas*<sup>24</sup>.

La artillería a bordo alcanzó considerable importancia, en aumento desde el segundo decenio del siglo XV, añadiéndose al armamento tradicional, porque se seguía confiando mucho en la eficacia de los ballesteros durante las maniobras de aproximación al enemigo<sup>25</sup>, y a ellos se unían ya los *espingarderos*, dotados de armas de fuego individuales. Citaré sólo algunos ejemplos de armamento embarcado:

1. La *Armada de Vizcaya*, fletada por los Reyes Católicos en 1493: una carraca y cinco naos dotadas con 67 lombardas “de la piedra mayor”, 178 “de la menor”, 67 espingardas y 194 ballestas, 890 lanzas *de armas* y 1.850 *de mano*.
2. Las dos carracas integradas en la *Armada de Flandes*, en 1496, disponían de 200 lombardas, 220 ballestas, 150 lanzas *luengas* y 300 *partesanas*, así como 120 armaduras de infante. En las veinte naos y carabelas de

<sup>21</sup> M.Á. Ladero Quesada, *La ‘Armada de Vizcaya’ (1492-1493): nuevos datos documentales*, en «En la España Medieval», 21 (2001), p. 365-394.

<sup>22</sup> M.Á. Ladero Quesada, *Ejércitos y armadas de los Reyes Católicos. Nápoles y el Rosellón. 1494-1504*, Madrid 2010.

<sup>23</sup> Ladero Quesada, *La armada de Flandes*, op. cit.

<sup>24</sup> Todos los datos entre 1497 y 1504 en Ladero Quesada, *Ejércitos y armadas de los Reyes Católicos*, op. cit., Segunda Parte, cap. octavo, Tercera Parte, cap. primero y tercero, Apéndice, p. 769-840. Otras noticias sobre armadas y vigilancia naval en la costa de Granada en J.M. Ruiz Povedano, *La fuerza naval castellana en la costa del reino de Granada (1482-1500)*, en «Chronica Nova» (Universidad de Granada), 28 (2001), p. 401-435.

<sup>25</sup> Para la armada de 1430 se dispuso el embarque en cada galera de 30 ballesteros y 10 peones “hombres de armas”, salvo en la del almirante donde fueron 50 y 29 respectivamente.

la armada había 435 lombardas de diversos calibres, 70 sacabuches, 400 espingardas, 500 ballestas, 2.000 paveses, 3.000 lanzas, 10.000 dardos, 200 pares de corazas y 200 capacetes.

3. En junio de 1500, se embarcó en 41 barcos de la armada que zarpaba de Málaga rumbo a Sicilia y *Levante*, 63 lombardas y otras piezas de artillería de bronce de diversos calibres, fundidas en Málaga, y 391 piezas de hierro traídas de Vizcaya y Guipúzcoa, además de 405 ballestas, 266 lanzas de armas y 1.425 de mano, 4.040 dardos, 768 paveses y 271 tablachinas, 52 docenas de *gorruces*. Aparte de la artillería y armas que ya tenían los barcos cuando se les contrató.

Las cuentas de contratación y pago de barcos de época de los Reyes Católicos proporcionan datos muy precisos sobre fletes, sueldos y otros gastos<sup>26</sup>: en naos y carabelas, el sueldo del marinero solía ser de 500 ó 600 maravedíes al mes (6.000 ó 7.200 al año). Los maestros recibían una paga cuatro veces superior, los contra maestros y pilotos, tres, los otros oficiales, dos. Los *hombres de armas* embarcados, que eran peones, algo menos que el marinero (416 m. al mes ó 5.000 al año), igual que los grumetes, y los *pajes*, en periodo de aprendizaje, menos aún. Aparte del salario se cobraba la dieta de *mantenimiento*, fijada en 11 ó 12 mrs. al día, salvo si se recibía gratuitamente a bordo en especie (*panática*), de modo que el marinero venía a ganar el equivalente a un real de plata diario como máximo. Podía haber además otro personal a bordo con sueldos diversos según los oficios y casos: *físicos* (médicos), cirujanos y barberos, boticarios, trompetas y *ministriles*, capellán a veces.

A veces se preveía algún descuento por motivos especiales, como sucedió en el contrato o *asiento* que se hizo con los capitanes de la *armada de Vizcaya*, que estipulaba uno del cuatro por ciento sobre todos los pagos para «ayuda del reparo de Santa María de Altamira de Miranda, por que los guíase Nuestra Señora a do más fuese servicio de Dios y de Sus Altezas».

El sueldo del capitán general de aquella armada era de 50.000 mrs./año y 30.000 el de los otros capitanes, salvo el de la nao menor que cobra 20.000 (cuatro veces el sueldo del marinero que era de 6.000 m./año). El piloto tenía un sueldo equivalente al 80 por 100 del de cada capitán, más *mareaje*, con lo que lo iguala o supera.

Poco tiempo después, los pagos en las armadas de los años 1500 a 1504 fueron estos:

1. Flete del navío	110 m/mes por tonel de aforo
2. Sebo para su empleo en los navíos	400m/mes, subido luego a 1.000 para la nao y 500 para la carabela
3. Capitán-maestre, salario	2.500 al mes el de nao. 1.250 el de carabela
4. Piloto, salario	2.000 al mes el de nao. 1.000 el de carabela

<sup>26</sup> Los fletes y los salarios de marineros eran bastante más altos en los viajes a Indias, especialmente durante los primeros decenios, porque también era mayor el riesgo. Vid. Ladero Quesada, *Las Indias de Castilla*, op. cit., p. 90-98.

5. Marinero, soldada	500 al mes, subidos luego por el Gran Capitán a 600 <sup>27</sup>
6. Grumete y <i>hombre de armas</i> , soldada	400 al mes, subidos luego a 416
7. Pajes	208 al mes
8. <i>Mantenimiento</i> de cada hombre (capitán, piloto y oficiales inclusive)	330 m/mes (11 m/día)
9. <i>Ventajas</i> de los oficiales	5.000 al mes (sólo los de las naos)

Las carracas genovesas se solían contratar por precio cerrado y estipulado en moneda de oro, que incluía el de su personal, armamento, provisiones y aparejos habituales, aunque aparte se podía añadir la entrega temporal de más artillería y armas. Así, las dos carracas de 1.000 *toneles* que participaron en la armada hombres de tripulación y cien lombardas por barco. En la armada de 1500 hubo tres carracas al precio de 1.000 ó 1.100 ducados al mes, bastante más elevado que en 1496, por los riesgos bélicos de la operación.

La contratación de galeras y fustas también se ajustaba a procedimientos o *asientos* específicos, propios de la tradición mediterránea, mediante precios cerrados, que incluían todos los aspectos del servicio, cobrado en moneda de oro y complementos en especie. Así, las galeras catalanas contratadas para diversas misiones entre 1476 y 1504 solían costar, cada unidad, 250 ó 260 florines de Aragón al mes (a 265 mrs. el florín), más 100 *quintales* de bizcocho y 10 de sebo. Las genovesas contratadas en 1500 lo fueron por 320 ducados cada una (a 375 mrs. el ducado), todo incluido. Los sueldos de capitanes variaban según la calidad de su oficio y el tipo de barco:

Bernat de Vilamarí, capitán de tres galeras en 1500: 1.000 ducados al año  
 Capitán de otra galera catalana en 1500: 50.000 mrs./año  
 Capitán de fusta o bergantín: 15.000 mrs./año

Respecto a la marinería, había desaparecido ya la obligación general de proporcionar *galeotes de behetría* en localidades de la zona cantábrica, que era el equivalente al servicio de armas concejil en otras partes, sustituida por una prestación económica mínima y simbólica a finales del siglo XV, de modo que se contrataba a remeros libres (*de buena bolla*) por 900 ó 930 mrs./mes, equivalente al sueldo y mantenimiento de un marinero. Se mantuvo también la presencia de galeotes forzados y, a veces, de *homicianos*, reos de delitos de sangre que redimían así su responsabilidad penal, y de *ventureros* que servían a su costa con el propósito de participar en los repartos de botín, si la guerra era favorable.

Para concluir: la capacidad naval catalana para transportar tropas e intervenir en operaciones de asedio se demostró ya en la conquista de Mallorca (1230) y la castellana en la de Sevilla (1248). Después, desde finales del siglo XIII, las galeras de los reyes de Aragón intervinieron con éxito en las

<sup>27</sup> Hay también casos de contratación de marineros por dos ducados al mes (750 mrs.) y de “hombres de armas” y grumetes por uno y medio (562 mrs.).

operaciones de Sicilia, desde 1282, y Cerdeña, a partir de 1324, mientras que las de los reyes de Castilla conseguían controlar el paso del Estrecho de Gibraltar, a menudo con ayuda de galeras catalanas y genovesas, entre 1279 y 1344, año en que Alfonso XI conquistó Algeciras. La potencia naval castellana se manifestó de nuevo en la guerra contra Aragón, entre 1356 y 1363, contando ya con una participación fuerte de barcos *redondos*, movidos sólo a vela, y en el apoyo a Francia contra Inglaterra, desde 1372.

Aumentó la importancia relativa de los barcos *redondos* desde las primeras décadas del siglo XV, porque la artillería embarcada en ellos era eficaz y, además, cumplían funciones de transporte de tropas útiles no sólo para el combate en tierra sino también en el mar, especialmente durante los abordajes, y porque sus costes de flete, marinería y mantenimiento eran menores que los de las galeras, salvo en el caso de las grandes *carracas*. En realidad, se procedió a un reparto de funciones: las galeras siguieron siendo más útiles como barcos de ataque en las batallas y también para la vigilancia de costas y rutas y la persecución de los enemigos; así, por ejemplo, galeras y otros barcos mixtos de vela y remo tuvieron encomendadas estas funciones en la costa de Granada después de la conquista de este reino por los Reyes Católicos, a finales del siglo XV.

En aquellos años, la monarquía tenía ya medios financieros suficientes para contratar, armar y mantener en servicio flotas de varias decenas de barcos, con artillería y contingentes de *hombres de armas* a bordo, además de la marinería. Las utilizó tanto para el transporte de tropas como para operaciones de asedio y guerra (v.g. Cefalonia, 1500) cuyas operaciones se prolongaban durante varios meses e incluso años, como sucedió en Nápoles entre 1502 y 1504. Aquellas armadas fueron un factor decisivo en los triunfos militares de los Reyes Católicos porque aseguraron el dominio de rutas marítimas fundamentales para llevar a cabo las guerras, y demostraron, a la vez, la potencia financiera de la monarquía y la de la marina mercante castellana del Cantábrico y de Andalucía, puesto que formaban parte de ella las *naos* y *carabelas* contratadas para la guerra, mientras que las *carracas* solían ser genovesas y la mayor parte de las galeras y otros barcos de remo y vela procedían de Cataluña, aunque su número fue ya mucho menor que en las grandes operaciones navales del siglo XIV.





## ***Games of submission in late medieval Italy***

by John Easton Law

The subject of game or play has long interested historians of medieval and renaissance Europe. That interest has “graduated” from one of curiosity and antiquarianism to one of serious historical enquiry in part due to the influence of other disciplines – for example, sociology, anthropology, art and architectural history. Its development was also due to the contribution of some influential historians working across disciplines; an early influence here was Jan Huizinga, whose *Homo Ludens. A Study of the Play-Element in Culture*, was first published in Haarlem, 1938<sup>1</sup>. In his forward, the author set out the case for the «supreme importance to civilisation of the play-factor», going on to argue that «all play means something», that play was a «function of culture», that the category “play” «is one of the most fundamental in life»<sup>2</sup>.

As was often the case in the context of the Italian Renaissance, the importance of the subject was suggested earlier by Jacob Burckhardt in the chapter on «Society and Festivals» in his *The Civilisation of the Renaissance in Italy*. Burckhardt focused on the later fifteenth and sixteenth centuries; another early contribution to the study of games and festivals in Italy, but with a longer chronological range, was William Heywood’s still valuable *Palio and Ponte*<sup>3</sup>.

In more recent years, historians’ interest in play and games has been further encouraged by the establishment of dedicated journals – of which «Ludica» is a notable example<sup>4</sup> – as well as by research in related fields: ritual, ceremony, dress, theatre, propaganda, the court, the control and use of “ritual space”. The contribution to the subject, coming from an interdisciplinary approach, is extensive and growing; the following are only some examples: Edward Muir and Elizabeth Crouzet-Pavan for Venice<sup>5</sup>; Richard Trexler

<sup>1</sup> The work first appeared in English in 1949. I have consulted the edition issued as volume III of The International Library of Sociology (Abingdon 2009).

<sup>2</sup> *Homo ludens*, p. 1, 4, 28.

<sup>3</sup> Subtitled *An Account of the Sports of Central Italy from the Age of Dante to the Twentieth Century*, London 1904. Earlier, Heywood had published *Our Lady of August and the Palio of Siena*, Siena 1899.

<sup>4</sup> «Ludica. Annali di storia e civiltà del gioco» first appeared in 1995, published by Viella Libreria in collaboration with Fondazione Benetton.

<sup>5</sup> E. Muir, *Civic Ritual in Renaissance Venice*, Princeton 1981; E. Crouzet-Pavan, *Quando la città*

for Florence<sup>6</sup>; Nadia Covini for Sforza Milan<sup>7</sup>. Today, probably the best known example of urban games with a medieval origin is the *Palio* of Siena<sup>8</sup>; however, in the period under consideration the festivities held in Rome, the capital of Christendom, probably attracted the most attention, from the Welshman Adam of Usk to the Florentine Giovanni Rucellai<sup>9</sup>. Medieval tradition was elaborated on in the Renaissance, creating a considerable bibliography<sup>10</sup>. The observation of Denys Hay that «the great public spectacles of Italy, and especially of Rome, await a historian who is alive to their significance in the political and religious spheres» has gone a long way to being answered<sup>11</sup>.

Hay went on to acknowledge that “public spectacles” were of importance, not only in such major cities as Rome and Venice; game as part of ritual and ceremony has also attracted the attention of historians of smaller centres, as in the case of Fabrizio Ricciardelli’s study of propaganda and civic ritual in late medieval Arezzo<sup>12</sup>. This contribution will be based on the participation expected of the commune of Amelia in southern Umbria in the carnival games held annually in Rome.

Amelia in southern Umbria is an ancient city, with pre-Roman origins, and from the fifth century it became the seat of a bishopric. However, it never became a major city state; though Amelia followed the pattern of other urban communes in extending its authority beyond its walls, its *contado* appears to have been largely limited to the frontiers of its bishop’s diocese<sup>13</sup>. Though

*si diverte. Giochi e ideologia urbana: Venezia negli ultimi secoli del Medioevo*, in G. Ortalli, ed., *Gioco e giustizia nell’Italia di comune*, Roma 1993, p. 35-48.

<sup>6</sup> R.C. Trexler, *Public Life in Renaissance Florence*, New York 1980.

<sup>7</sup> N. Covini, *Feste e cerimonie milanesi tra città e corte*, in «Ludica. Annali di storia e civiltà del gioco», 7 (2001), p. 122-150.

<sup>8</sup> For the historical background to the *Palio* and civic ritual in Siena: F. Schevill, *Siena. The History of a Medieval City*, New York and London 1964 (1904<sup>1</sup>), p. 340-348; J. Hook, *Siena and its History*, London 1979, ch. 11; P. Jackson, F. Nevola, *Beyond the Palio: Urbanism and Ritual in Renaissance Siena*, in «Renaissance Studies», 20 (2006), 2, p. 137-275. For a recent contribution, A. Savelli, *Siena: il popolo e le contrade*, Florence 2008; I am grateful to Gian Maria Varanini for the reference.

<sup>9</sup> *The Chronicle of Adam of Usk*, ed. and trans. C. Given-Wilson, Oxford 1997, p. 194-197; A. Perosa, ed., *Giovanni Rucellai e il suo Zibaldone*, London 1960, p. 76-77. An informed account of Roman carnival games, and where they held, was written by the Welshman William Thomas in *The Historie of Italy*, first published in London in 1549, A Deidda et al., *Lezioni ai potenti: William Thomas e l’Italia*, Cagliari 2002, p. 218-220.

<sup>10</sup> A useful exploration of medieval tradition and Renaissance developments can be found in M. Boiteux, *Chasse aux taureaux et jeux romains de la Renaissance*, in P. Aries, F.-C. Margolin, eds, *Les jeux à la Renaissance*, Tours 1982, p. 33-53. For a more general treatment, M.A. Visceglia, *L’identità urbana. Rituali civici e spazio pubblico a Roma tra Rinascimento e Controriforma*, in «Dimensioni e problemi della ricerca storica», 2 (2005), p. 7-38.

<sup>11</sup> *Historians and the Renaissance during the last twenty-five years*, in *Renaissance Essays*, London 1988, p. 124-125. The essay was first published in *Il Rinascimento: interpretazioni e problemi*, Roma-Bari 1979, p. 1-32.

<sup>12</sup> *Propaganda politica e rituali urbani nella Arezzo del tardo Medioevo*, in «Archivio storico italiano», 162 (2004), p. 233-258. For the place of games and spectacle in a smaller centre of the Veneto, F. Pigozzo, *Palio, open-air gamings and fairs in a rural centre in the XIV century*, in «Ludica. Annali di storia e civiltà del gioco», 11 (2005), p. 109-112.

<sup>13</sup> Some indication of the nature and extent of its territory can be found in S. Del Lungo, *Cultura*

within the Patrimonio di San Pietro in Tuscia and close to Rome, it never appears to have become an “alternative” or summer residence for the papacy. From the early thirteenth century, it was forced to acknowledge a dependency on Todi, and from at least the early fourteenth century, the city owed allegiance to the commune of Rome, if both could be contested, as indeed could its loyalty to the papacy, in “exile” in Avignon<sup>14</sup>.

However, despite the turbulence and changes of power that affected the Papal States in the fourteenth and earlier fifteenth centuries, Amelia never became the seat of a *signoria*; the ascendancy of Ladislao of Naples or such “warlords” as Tartaglia di Lavello, Francesco Sforza and Giovanni Vitelleschi was never centred on the city<sup>15</sup>. The Orsini, the Colonna and other families had land and influence in the area, but did not establish a lordship, or resided there. At the end of the Middle Ages, a leading local dynasty, the Geraldini, sought advancement in the Church, in the Kingdom of Naples, in Spain and even in the New World rather than within their native city’s walls<sup>16</sup>. Though legally a “city”, Amelia’s relative marginality almost places it in the category much discussed by Giorgio Chittolini, of a “quasi città” or a “centro minore”<sup>17</sup>. However, this very marginality may have contributed to the preservation of a remarkably rich communal archive which helps to throw some light on its participation in Rome’s carnival games, and on its relations with that city in the later Middle Ages<sup>18</sup>.

The carnival games in Rome had a long history, from at least the eleventh century<sup>19</sup>; but when a tributary element began which involved the communes subject to the *Alma Urbs* is less clear. Gregorovius suggested that the games «represented to the Romans a shadow of the ancient Latin dominion and the tributary allegiance of subjects and allies»<sup>20</sup>; in the Middle Ages, the progres-

*e evoluzione del paesaggio dalla tarda antichità al medioevo nella toponomastica amerina*, in E. Menestò, ed., *Amelia e i suoi statuti medievali*, Spoleto 2004, p. 187-232.

<sup>14</sup> G. Pardi, *Relazioni di Amelia con il comune di Roma ed i nobili romani*, in «Bollettino della società umbra di storia patria», 1 (1895), p. 579-590; A. Di Tommaso, *Guida di Amelia*, Terni 1931, p. 24-35; R. Nanni, *Amelia nel basso medioevo*, in Menestò, *Amelia*, p. 3-42.

<sup>15</sup> B. Geraldini, *Amelia sotto la dominazione del Re Ladislao e del Tartaglia da Lavello*, in «Bollettino della Deputazione di storia patria per l’Umbria», 12 (1906), p. 491-495.

<sup>16</sup> E. Menestò, ed., *Alessandro Geraldini e il suo tempo*, Spoleto 1994; *I Geraldini di Amelia nell’Europa del Rinascimento*, Viterbo 2004.

<sup>17</sup> For example, G. Chittolini, *Città, comunità e feudi negli stati dell’Italia centro-settentrionale (secoli XIV-XVI)*, Milano 1996. To the north and west of the Via Flaminia, Amelia was not a recognised stop on the Grand Tour, though its ancient walls did attract the attention of the traveller and archaeologist Edward Dodwell (1767-1832; I am grateful to Mara Quadraccia for that reference). The later English travel writer and historian Edward Hutton, who was enthusiastic about Umbria and not afraid to leave the “beaten track”, does not mention the city in the early editions of his *The Cities of Umbria*, first published in 1905.

<sup>18</sup> All the archival references that follow come from the Archivio Storico Comunale of Amelia (= ASCA), currently held in the city’s Biblioteca Civica. I am extremely grateful to the librarian Ugo Di Nicola for his assistance.

<sup>19</sup> Boiteux, *Chasse*, p. 35.

<sup>20</sup> F. Gregorovius, *History of Rome in the Middle Ages*, London 1898, VI/2, p. 710; for Philip Jones, «in secular iconography capital or tribute-bearing cities continued, in the antique tradition, to symbolise dominion», *The Italian City State from Commune to Signoria*, Oxford 1997,

sive enforcement of a “tributary allegiance” probably dates from attempts by Rome in the twelfth and thirteenth centuries – in common with other major urban communes – to assert its authority over lords and communes in the city’s hinterland, especially those on major roads and near areas of supply by land and sea, for example Terracina and Priverno (Piperno), south of Rome on or near the via Appia<sup>21</sup>. The conquest of Tuscanella (via Aurelia) in 1300 forced that community to send its bells and gates to Rome, to pay a tribute in cash or grain and to contribute eight *luxores* to the carnival games; the significance of the last obligation is indicated by a memorial inscription on the Palazzo del Senato on the Campidoglio<sup>22</sup>. Other communes formally subjected to Rome in the same period were Velletri (via Appia), Tivoli (via Tiburtina), Corneto (via Aurelia) and Magliano (via Flaminia)<sup>23</sup>. Amelia was on the via Amerina.

In the Middle Ages, the carnival games were normally held at two principal sites in Rome: on *Giovedì Grasso* in the Piazza Navona<sup>24</sup>; on the Sunday before Lent on or near the Monte Testaccio near the Aventine. The part of the festivities the subject communes were principally involved with was at the latter, where a horse race was run for a *palio*; from at least 1256 the Testaccio could also be referred to as the «Monte de Palio»<sup>25</sup>. The reason for the choice of site may not at first appear obvious, but the area was outside the medieval city, and while it was not built over, it was owned or leased by the commune of Rome<sup>26</sup>. Moreover, in the Middle Ages the site was associated with Roman greatness, based on the belief that the amphorae and other terracotta vessels discarded there had once held tribute sent to Rome from its subject lands; Flavio Biondo dismissed this idea, but the mass of discarded vessels – *testae* – that made up the Monte did at least reflect the importance of Rome, drawing in commodities from a vast empire, explaining why the mound could also be referred to as the «Monte di Tutto il Mondo»<sup>27</sup>.

p. 82, although it is unclear if the Romans held regular tributary games of this kind either under the Republic or the Empire.

<sup>21</sup> G. Tomassetti, *Della campagna romana*, in «Archivio storico della società romana di storia patria», 17 (1894), p. 74-75.

<sup>22</sup> P. Vitale, *Storia diplomatica de’ senatori di Roma*, Roma 1791, I, p. 266-267; F. Clementi, *Il carnevale romano*, Roma 1899, I, p. 31-32; Tomassetti, *Della campagna*, p. 75; G. Ricci, *La nobilis universitas bobacteriorum urbis*, in «Archivio storico della società romana di storia patria», 16 (1891), p. 160.

<sup>23</sup> Clementi, *Carnevale*, p. 30-32; Tomassetti, *Della campagna*, p. 74.

<sup>24</sup> On the site of the stadium built by Domitian where competitive games held: «in agone, nagone, navone, navona» (Touring Club Italiano, ed., *Roma e dintorni*, Milano 1977, p. 192).

<sup>25</sup> Clementi, *Carnevale*, p. 27; A. Busini-Vici, *Il carnevale romano*, Roma 1896, p. 27-33; V. Gleijeses, *Piccola storia del carnevale*, Napoli 1971, p. 26-27.

<sup>26</sup> Gregorovius, *History*, VI, p. 710, records that the city paid the church of Sta Maria on the Aventine a florin a year for the use of the Monte; Tomassetti, *Della campagna*, p. 75; D. Orano, *Il Testaccio: il monte e il quartiere dalle origini al 1910*, Pescara 1910, p. 22; R. Lanciani, *Il Testaccio e i prati del popolo romano*, in «Bollettino della Commissione archeologica», 42 (1914), p. 242; G. Masson, *The Companion Guide to Rome*, London 1972, p. 423; L. Chiumenti and F. Bilancia, *La Campagna Romana antica, medioevale e moderna redatta sulla base degli appunti lasciati da G. e F. Tomassetti*, Florence 1979, 5, p. 35-43.

<sup>27</sup> Gregorovius refers to the medieval legend while describing the Monte as «a fitting symbol of

At present, the role of subject communes like Amelia in the evolving carnival festivities in Rome is unclear; Roman and foreign commentators in the Middle Ages and Renaissance were interested in the games, but principally as a “Roman” event, and while they could note the distinguished visitors who attended in person or in proxy<sup>28</sup>, the involvement of the “provinces” – ironically but tellingly – seems to have been largely ignored. At the Monte, pigs and bulls were slaughtered, a blood-letting that was followed by horse races, probably not on the Monte itself but on the surrounding level ground; according to Orano, most of the *luxores* who took part in the killing of animals were young men from lands subject to Rome<sup>29</sup>, but as will be discussed below, the records of the commune of Amelia suggest that the riders formally dispatched to represent the subject city at the Roman carnival were intended to take part in games of horsemanship, rather than in a free-for-all slaughter of panic-stricken animals.

The exact date and circumstances of Amelia’s surrender to Rome are unclear. It was possibly in 1307, or slightly later, between 1308 and 1311<sup>30</sup>. A majority of the clauses concerned the authority of the podesta – now a Roman appointment – but one committed Amelia to send «annuatim sex iocatores testacce» to Rome. On 3 February 1318 the commune was arranging with one «Iuculus Matrioni de Amelia» for its participation in the *ludum Testatii* over a three year period, suggesting that the obligation had become established<sup>31</sup>. Certainly by the early fifteenth century, the period for which the communal archives have been sampled – the need to take part in the Roman carnival games appears as a fairly regular item on the commune’s agenda.

As other sources confirm, the horse races in which Amelia and other subject communes were involved were generally held on the Sunday before Lent, though preliminary events were held on the Campidoglio on the Saturday. Very occasionally, however, and for reasons which are not at present clear, the games were brought forward, as in 1423<sup>32</sup>.

Whatever the date, a few weeks beforehand, the commune of Amelia, though its *anziani* – though sometimes its *podestà*, his vicar or even the General Council could be involved – issued a call, a *bannimentum*, for participants. This was carried out by the commune’s herald – the *precone* or *tubator* – who is recorded as having made the announcement «alta voce et sono tube», «per plateas et alia loca publica», «ad loca publica consueta»<sup>33</sup>.

the splendours, shattered to fragments, of ancient Rome» (*History*, II, p. 409-410); Orano, *Il Testaccio*, p. 4.

<sup>28</sup> E.g., *Il diario romano di Antonio di Pietro dello Schiavo*, ed. by F. Isoldi, in *Rerum italicarum scriptores*, 2<sup>nd</sup> ed., t. XXXIV, p. 5, Città di Castello 1917, p. 56, for 1410.

<sup>29</sup> Orano, *Il Testaccio*, p. 30.

<sup>30</sup> Pardi, *Relazioni di Amelia*, p. 585-587; R. Boresta, *Il comune di Amelia durante il periodo del papato avignonese*, Tesi di laurea, Università di Roma, 1941-42, p. 27 (I consulted a copy of this tesi held in the Biblioteca Civica of Amelia); Nanni, *Amelia*, p. 7-9.

<sup>31</sup> ASCA, perg. 41 (copy of 18 March 1421); Nanni, *Amelia*, p. 9-10.

<sup>32</sup> ASCA, *Riformanze*, 13, f. 477rv.

<sup>33</sup> For example ASCA, *Riformanze*, 8, f. 73v; ASCA, *Riformanze*, 9, ff. 96v, 268r.

At times the commune found it difficult to find candidates willing to take part, and the summons had to be repeated; in 1411, for example, the proclamation was made on 29 January, 3 February and 8 February<sup>34</sup>. However, the repetition of the proclamation could also be caused by the commune's anxiety to secure representation for as low a cost as possible<sup>35</sup>. In 1411, the first price offered, by Lodovico *magistri Galasii* of Amelia, was 7 florins; the commune's decision to repeat its proclamation on 10 February persuaded Lodovico to drop his price to 6 florins, while a rival offer of 5.5 florins pushed Lodovico to offer 4.5 florins<sup>36</sup>.

The successful bidder then formally declared in the commune's chancery his willingness to represent Amelia in Rome; on 12 February 1405, the *tubator* was told to announce that commune's representative «iret et compareret ad faciendum se scribi per cancellarium dicti comunis»<sup>37</sup>.

At present, little is known about the participants themselves; however, the reappearance of a few names in the records already examined suggests that they were professional or experienced riders, earlier examples of the horsemen employed by the Medici, the Gonzaga and others to take part in prestigious *pali*<sup>38</sup>. Lodovico *magistri Galasii* was successful in 1411. He entered again in 1421, offering to compete for 4 florins before withdrawing<sup>39</sup>. His place was taken by Battista *Petri Pauli*, also offering to serve for 4 florins, and he appears the following year, offering to take part for 4.5 florins before accepting 3.75 florins<sup>40</sup>. On 5 February 1436, Cristofano Buci offered to represent Amelia for 12 florins, though by 13 February competition had brought him down to 5.5 florins<sup>41</sup>. He was the commune's representative again in 1437 having lowered his fee from 9 to 6 florins<sup>42</sup>. In 1438 he secured the appointment after reducing his fee drastically, from 8 to 2 florins<sup>43</sup>. On 2 February 1440, Cristofano was the only candidate, offering to go to Rome for 5.5 florins<sup>44</sup>.

Though the riders referred to so far as responding to the proclamations were citizens of Amelia, on occasion recourse seems to have been made to substitutes with Amelia's contingent of four «equestres ludentes ante palacium Campidoglii cum bampneriis et copertis» being led by Roman citizens, as happened in 1411, 1412 and 1414<sup>45</sup>. This is revealed from the *cedulae* or *apodissae*, the letters of acknowledgement dispatched to Amelia to record its

<sup>34</sup> ASCA, *Riformanze*, 9, ff. 268v, 269r, 274r.

<sup>35</sup> For example ASCA, *Riformanze*, 9, f. 268v.

<sup>36</sup> ASCA, *Riformanze*, 11, f. 277r.

<sup>37</sup> ASCA, *Riformanze*, 8, f. 73v.

<sup>38</sup> M.E. Mallett, *Horse racing and politics in Lorenzo's Florence*, in M.E. Mallett, N. Mann, *Lorenzo the Magnificent: Culture and Politics*, London 1996, p. 253-262.

<sup>39</sup> ASCA, *Riformanze*, 13, f. 90v.

<sup>40</sup> ASCA, *Riformanze*, 13, f. 299r.

<sup>41</sup> ASCA, *Riformanze*, 18, ff. 9r, 13r.

<sup>42</sup> ASCA, *Riformanze*, 18, f. 132v.

<sup>43</sup> ASCA, *Riformanze*, 19, f. 152r, 160v.

<sup>44</sup> ASCA, *Riformanze*, 21, f. 41rv.

<sup>45</sup> ASCA, *Riformanze*, 9, f. 297r; 10, ff. 76r, 252v.

participation. These were generally sent from the *Conservatores Camerae Urbis*, but they could reflect changes in the political circumstances in Rome. Thus the letter of 17 February 1414 was written on behalf of Ladislas King of Naples, then the effective ruler of Rome<sup>46</sup>. The election of Martin V at the Council of Constance insured that the letter written on 27 January 1418 to remind subject lords and communes of their obligations to participate in the carnival came from the pope's senator as well as the *conservatores*<sup>47</sup>.

Unfortunately the registers of the Riformanze examined to date are not very revealing about the actual games themselves: the documentation tends to stress the customary nature of the obligation suggesting that the details were clear to all concerned, as in 1405 – «ipsum ludum facere more solito in urbe romana» – or in 1421 – «ad faciendum ludum testacie more solito». However the number of riders sent appears to have been lower than the six stipulated on the city's surrender or in the letter of 27 January 1418<sup>48</sup>, with three or four appearing to be the norm. In 1436, 1437, 1438 and 1440, Cristofano Buci was to attend with three riders, but the letter of acknowledgement sent by the *conservatores* on 17 February 1436 included him among the three participants<sup>49</sup>.

The letters from Rome also reveal something of the preliminaries to the Testaccio games which took place on the Saturday before Lent. On 2 March 1411, the *camerarius* of the *Camera Urbis* informed Amelia that four riders – *luxores equestres* – had attended on the commune's behalf *ludentes* in front of the palace on the Campidoglio – «ante palactium Campidoglii» – complete with banners and trappings – «cum bampneriis et copertis» – as they were expected to do *annuatim*<sup>50</sup>. The letter of 18 February 1412 is slightly fuller. The Roman notary «Paulus Laurentii Mutii» had acted for Amelia *more consueto* with four «luxoribus equestribus», carrying banner with the arms of the city and racing – *correndo* – in front of the palace – «ante palatium et scalas palatii Capitolii more solito et consueto»<sup>51</sup>. Further information appears in the letter of 17 February 1414. Again the contribution from Amelia was made up of four riders led by a Roman citizen. The festivities took place in the market area of the Campidoglio – «in foro Mercati ante palatium Capitolii more solito», or «ante palatium et scalas Capitolii» – in the presence of the senator, the *conservatores*, the heads of the districts, the *rioni*, of Rome and other officials. The participants carried banners with the arms of Amelia as they competed and raced – «ludendo et currendo»<sup>52</sup>.

<sup>46</sup> ASCA, *Riformanze*, 10, f. 252v.

<sup>47</sup> ASCA, *Riformanze*, 12, f. 144r.

<sup>48</sup> ASCA, *Riformanze*, 12, f. 145r. Six continued to be the number demanded from the surrender to 1353 when the Cardinal Albornoz lifted this and other burdens from ASCA, perg. 140 and 143.

<sup>49</sup> ASCA, *Riformanze*, 18, f. 13r, though the games may not have been held that year.

<sup>50</sup> ASCA, *Riformanze*, 9, f. 297r. For the Palazzo Senatorio and its surroundings, C. Pietrangeli, *Il palazzo senatorio nel medioevo*, in «Capitolium», 35 (1960), p. 3-19.

<sup>51</sup> ASCA, *Riformanze*, 10, f. 76r.

<sup>52</sup> ASCA, *Riformanze*, 10, f. 252v.

As mentioned earlier, forms of spectacle and ritual are attracting a great deal of attention from historians of medieval and renaissance Italy, but what can be ignored is the relevance of such phenomena to the political, social, legal and economic realities. Further exploration of the rich communal archives of Amelia would almost certainly reveal deeper dimensions to the relationship between the commune and the *Alma Urbs* beyond those suggested by the obligation to participate in the carnival games. A deeper understanding would also come from an exploration of the archives of other cities subject to Rome, and from a closer scrutiny of the political narrative for Rome and its hinterland. However some interesting issues relating to the relationship between Amelia and Rome can be raised from the evidence explored to date.

That some individuals bid to represent Amelia on several occasions, despite the commune's efforts to keep costs down, suggests that for the riders chosen their participation in the Testaccio games could be seen as prestigious and rewarding, as was the case with *palio* contests held in Siena, Florence, Mantua and elsewhere<sup>53</sup>. But is there any evidence that the commune itself found the obligation burdensome or humiliating?

Little in the archival evidence in Amelia explored to date would suggest this, explicitly. The call for riders does not seem to have been accompanied by threats or statements of principle on the part of Rome, except in the possibly special circumstances of 1418. The entries in the *Riformanze* describe the fact and nature of Amelia's participation with little comment beyond the laconic *more solito*. Occasionally Rome is dutifully refereed to as *alma*, and the letters from that city to Amelia can address the commune's *anziani* in affectionate terms<sup>54</sup>. The financial costs do not appear to have been high, generally running below the figure of 7 florins recorded for 1319<sup>55</sup>.

However the *Riformanze* of Amelia – as in the case with those of other communes – represented the summaries of communal business rather than verbatim discussion, and as Amelia was not an independent commune, its records would have been composed under the authority of external officials, often sent by Rome. Indeed, a closer reading of the evidence suggests that the obligation to participate in the carnival games was perceived as imposition. Quite apart from the original terms of Amelia's surrender to Rome, there is the fact that the city felt the need to re-state, emphatically, the obligations expected of its subject communes on 18 January 1418<sup>56</sup>. Amelia may also have used the unstable political and military situations as an excuse not to participate. In 1434 and 1435 the commune did not send riders to Rome; the intervention of one of its citizens, the «egregio doctore messer Johanni» – who had taught at the Roman *Studium* and who had been made «capitanio delle appellazioni del

<sup>53</sup> Mallett, *Horse-racing*, *passim*.

<sup>54</sup> E.g., ASCA, *Riformanze*, 12, f. 15r; ASCA, *Riformanze*, 13, ff. 85v-86r, 94v.

<sup>55</sup> Above n. 31.

<sup>56</sup> ASCA, *Riformanze*, 12, ff. 144r-145r. The document stressed Rome's determination to defend the «iura camere» as recorded «in archivis urbis».



popolo di Roma» – secured its forgiveness on 17 February 1436<sup>57</sup>. Moreover, Amelia consistently sent fewer riders than stipulated at its surrender or in 1418. Finally, it is significant that the obligation to take part in the carnival games was not included in the statutes drawn up by the commune, in contrast to the situation with another city subject to Rome, Anagni<sup>58</sup>.

Finally, Amelia like other communes subject to Rome sought to end the commitment<sup>59</sup>. When the commune submitted to the Cardinal Albornoz in 1354 he freed Amelia from the obligations to send candles to Todi and riders to Rome<sup>60</sup>. The latter concession cannot have lasted; according to Di Tommaso, Amelia petitioned Martin V to remove the burden<sup>61</sup>.

The significance of the carnival can also be gauged from the interest the Romans took in the event<sup>62</sup>, if the role the subject communes took in the games as they evolved over the Renaissance is hard to assess. That interest, however, was not unique to Rome; as is well known, in late medieval and renaissance Italy, ruling states – republics and *signorie* – used ceremony to assert and celebrate authority, and the holding of races for *palii* was widely organised to express – or anticipate – victory over enemies and subjects. Some of these were of these events were ad hoc. In 1288, while laying siege to Arezzo, the Florentines staged a *palio* outside its walls in honour of their patron saint, John the Baptist<sup>63</sup>. When Bernabò Visconti besieged the Della Scala in Verona in 1378, he demonstrated his confidence in victory and contempt for his opponents by knighting two of his sons outside the city's gates and organising a *palio*<sup>64</sup>.

Other festivities involving a *palio* became annual events but they did not always mirror the Roman model and involve subject communities as participants. In the case of Florence subject lords and communes were certainly expected to contribute to the John the Baptist celebrations, but in terms of gifts rather than participation<sup>65</sup>. In Siena, subject communities were present in the procession before the *palio*, but the reference appears to be late<sup>66</sup>.

<sup>57</sup> ASCA, *Riformanze*, 18, f. 13rv.

<sup>58</sup> Menestò, ed., *Amelia e i suoi Statuti*; R. Ambrosi de Magistris, *Lo statuto di Anagni*, in «Archivio della Società romana di storia patria», 3 (1880), p. 351.

<sup>59</sup> The good offices of Giovanni Vitelleschi with Martin V probably freed his native city of Corneto (now Tarquinia) from the obligation, J.E. Law, *Giovanni Vitelleschi "prelato guerriero"*, in «Renaissance Studies», 12 (1998), 1, p. 47. Corneto submitted to Rome in 1376 (F. Guerri, *Fonti di storia cornetana*, Corneto 1908, p. 211).

<sup>60</sup> Nanni, *Amelia*, p. 19. It is at present unclear how long the exemption lasted.

<sup>61</sup> Guida, p. 35. The fact that Martin was a Colonna and very much a 'Roman' pope may in part explain the failure of Amelia's petitions.

<sup>62</sup> If Giovanni Vitelleschi managed to free Corneto from the obligation to take part, his later pacification of Rome, leading to the reintroduction of the games was praised, Paolo di Lello Petrone, *La mesticanza (XVIII agosto MCCCXXXIV-VI marzo MCCCXXXIV)*, in *Rerum italicarum scriptores*, 2<sup>nd</sup> ed., t. XXXIV, p. 2, ed. by F. Isoldi, Città di Castello 1910, p. 34.

<sup>63</sup> H.L. Chretien, *The Festival of San Giovanni. Imagery and Political Power in Renaissance Florence*, New York 1994, p. 40-41.

<sup>64</sup> G.B. Verci, *Storia della Marca trevigiana e veronese*, Venezia 1786-1791, XVII, p. 66-67.

<sup>65</sup> There is a vast literature on the festivities surrounding the fest of San Giovanni in Florence, for example C. Guasti, *Le feste di Giovanni Battista*, Florence 1908; L. Heidi, *The Festival of San Giovanni. Imagery and Political Power in Renaissance Florence*, New York 1994.

<sup>66</sup> Hook, *Siena*, p. 231.

*Palii* were also held in the *terraferma* cities subject to Venice. Here, however there is perhaps a difference from the Roman and the Tuscan “models”: these races appear to have been organised “from below”, as an expression of loyalty, rather than being imposed “from above” as an expression of authority. On 3 December 1391, Treviso decided to hold a *palio* to celebrate its return to Venetian rule on 13 December 1389<sup>67</sup>. The Bellunese chronicler, Clemente Miari, records that a *palio* was held on 18 May 1405 to commemorate the inauguration of Venetian rule a year before<sup>68</sup>. Clemente also records that on 4 January 1406 the representatives of Padua – a city also recently acquired by Venice – demonstrated their new-found loyalty by offering a *palio* to the winner of jousts and tournaments to be held in the Piazza San Marco<sup>69</sup>. Much later, in 1483, the Venetian nobleman Marino Sanudo recorded with little comment the horse race held in Padua on 18 November to commemorate the city’s surrender to Venice<sup>70</sup>. Such evidence suggests a rather more “consensual” view of the “territorial state” than the one expressed by Rome<sup>71</sup>.

Game, as part of ceremony and ritual, can provide revealing – if partial – insights into the nature of the territorial state in late medieval Italy; the case of Amelia confirms that there is much of relevance to be explored in archives outside the more familiar “centres” of research. Giorgio Chittolini would also recognise the fact that the nature of the “territorial state” revealed by such research does not easily conform to a single “model”, which adds to its value.

<sup>67</sup> Verci, *Storia*, XIX, doc. 17, p. 52.

<sup>68</sup> C. Miari, *Cronaca bellunese*, Belluno 1873, p. 151-152. The city also celebrated St Mark’s day (p. 145-147). On the chronicler, J.E. Law, *A clerical chronicler of c. 1400: Clemente Miari of Belluno*, in «Renaissance Studies», 2 (1988), 2, p. 173-184.

<sup>69</sup> *Cronaca*, p. 174.

<sup>70</sup> *Itinerario di Marin Sanuto per la Terraferma Veneziana*, ed. R. Brown, Padova 1847, p. 25.

<sup>71</sup> This view of the Venetian state will be elaborated in a new edition of Sanudo’s *Itinerario* being prepared in collaboration with G.M. Varanini and M. Knapton.

# **Fonti vaticane e storia dell'università in Europa\***

di Michael Matheus

Finora le serie dei registri di Curia<sup>1</sup>, come pure il *Repertorium Germanicum* e il *Repertorium Poenitentiariae Germanicum* (di seguito indicati come RG e RPG), hanno ricevuto poca attenzione negli studi dedicati ad aspetti della storia della formazione e dell'università, e nel complesso il valore di queste fonti per la ricerca su tali questioni non è ancora del tutto noto o meglio riconosciuto. Mi concentrerò di seguito su cinque temi di storia dell'università, per i quali le fonti dell'Archivio Vaticano non sono solo importanti, ma addirittura imprescindibili. Prenderò in considerazione il territorio dell'Impero nel tardo Medioevo e quindi oltre all'attuale Repubblica Federale Tedesca altri paesi europei.

## **1. Privilegi universitari e fondazioni di università**

È noto che nell'ambito del territorio dell'Impero la prima fondazione universitaria ebbe luogo a Praga nel 1348, un'iniziativa promossa essenzialmente da Carlo IV come re di Boemia<sup>2</sup>. In seguito sorsero tutta una serie di università per volontà in particolare di signori territoriali, ma talvolta anche di città. Intorno al 1500 l'Impero era dotato di una rete piuttosto fitta di istituzioni uni-

\*Ringrazio Valeria Leoni per la traduzione di questo saggio dal tedesco in italiano.

<sup>1</sup> Nel 2004 un'allieva di Giorgio Chittolini ha lavorato per alcuni mesi come borsista presso l'Istituto Storico Germanico di Roma sui registri delle suppliche di Pio II per un progetto relativo al ducato di Milano. Il comune interesse per le serie dei registri vaticani ha portato a un intenso scambio scientifico. Si veda Beatissime pater. *Documenti relativi alle diocesi del Ducato di Milano. I Registra supplicationum di Pio II, 1458-1464*, a cura di E. Canobbio, B. Del Bo, Milano 2007. Relativamente agli studi dedicati ai Registri vaticani, curati e promossi da Giorgio Chittolini, si vedano anche G. Battioni, *Censimento ed edizione di documenti pontifici relativi alla provvista beneficiaria delle diocesi padane (1447-1527)*, in «Schifanoia», 4 (1987), pp. 151-163; C. Belloni, *A proposito di una recente edizione di fonti vaticane e di un progetto di ricerca sulle istituzioni ecclesiastiche nel ducato di Milano*, in «Nuova rivista storica», 84 (2000), pp. 421-434; C. Belloni, G. Chittolini, *Fondi notarili e fonti pontificie per la storia delle diocesi lombarde alla fine del Medioevo*, in *Storia della Chiesa in Europa tra ordinamento politico amministrativo e strutture ecclesiastiche*, a cura di L. Vaccaro, Brescia 2005, pp. 181-190.

<sup>2</sup> F. Rexroth, *Deutsche Universitätsstiftungen von Prag bis Köln*, Köln, Weimar, Wien 1992 (Beihefte zum Archiv für Kulturgeschichte, 34).

versitarie, la maggior parte delle quali non poteva comunque competere né per dimensioni né per fama con i celebri istituti di studi superiori di Italia, Francia e Inghilterra. Anche se la cultura scientifica medievale non si sviluppava assolutamente solo nell'ambito delle università, tuttavia l'istituzione universitaria, fenomeno proprio dell'Occidente latino, rappresentò uno strumento *sui generis* ma di importanza fondamentale per lo svolgimento di processi di formazione razionalmente organizzati: processi che il mondo contemporaneo ha ereditato dal medioevo e che, al di là di tutti i mutamenti subiti, non hanno ancor oggi perso di significato nelle loro durevoli realizzazioni.

Più volte si è cercato di periodizzare il processo di fondazione di università nel territorio dell'Impero, prolungatosi tra la metà del XIV secolo e l'inizio del XVI, suddividendolo in due fasi oppure ondate<sup>3</sup>. Una prima ondata di fondazioni sarebbe collocabile tra quella dell'università di Praga e quella di Rostock (1419). Dopo un'interruzione di qualche decennio si sarebbe verificata una seconda fase, iniziata con la fondazione di Greifswald (1456) e conclusasi con quella di Wittenberg (1502) o Francoforte sull'Oder (1506). Ci siamo già soffermati in altra sede sui problemi sollevati da una tale periodizzazione interna in una prospettiva europea<sup>4</sup>. Già Ernst Schubert nel 1978, in uno studio al quale la ricerca in lingua tedesca deve parecchi spunti, aveva accolto tale suddivisione, sostenendo comunque l'opportunità di non seguire «in modo troppo schematico l'idea delle ondate di fondazione»<sup>5</sup>. Se un taglio periodizzante collocato negli anni Cinquanta del XV secolo non ha alcun senso in prospettiva europea, un altro dato di fatto dovrebbe essere incontestabile. Le fondazioni universitarie fino alla fine del XIV secolo potrebbero essere ricondotte a una più antica tipologia di stampo internazionale, mentre successivamente si sarebbe determinata un'evoluzione verso istituti di studio superiori con una caratterizzazione più spiccatamente regionale<sup>6</sup>. Il cosiddet-

<sup>3</sup> E. Schubert, *Motive und Probleme deutscher Universitätsgründungen des 15. Jahrhunderts*, in *Beiträge zu Problemen deutscher Universitätsgründungen der frühen Neuzeit*, a cura di P. Baumgart, N. Hammerstein, Nendeln 1978 (Wolfenbütteler Forschungen, 4), pp. 13-73, in particolare pp. 13 sg.

<sup>4</sup> M. Matheus, *Heiliges Jahr, Nikolaus V. und das Trierer Universitätsprojekt: Eine Universitätsgründung in Etappen (1430-1473)*, in *Attempo - oder wie stiftet man eine Universität. Die Universitätsgründungen der sogenannten zweiten Gründungswelle im Vergleich*, a cura di S. Lorenz, Stuttgart 1999 (Contubernium, 50), pp. 35-53; M. Matheus, *Rom und die Frühgeschichte der Mainzer Universität*, in *Mainz im Mittelalter*, a cura di M. Dreyer, J. Rogge, Mainz 2009, pp. 214-232.

<sup>5</sup> Schubert, *Motive* cit., p. 15.

<sup>6</sup> *Ibidem*, p. 17; R.C. Schwinges, *Das Reich im gelehrten Europa. Ein Essay aus personengesichtlicher Perspektive*, in *Heilig - römisch - deutsch. Das Reich im mittelalterlichen Europa*, a cura di B. Schneidmüller, S. Weinfurter, Dresden 2006, pp. 227-250; ristampa in R.C. Schwinges, *Studenten und Gelehrte. Studien zur Sozial- und Kulturgeschichte deutscher Universitäten im Mittelalter*, Leiden, Boston 2008, pp. 579-607 (Education and society in the Middle Ages and Renaissance, 32). Considerando i complessi processi di fondazione non parerei di un'epoca fondata sull'autorità pontificia piuttosto che imperiale (così Schwinges, *Studenten und Gelehrte* cit., pp. 232 e 585), anche perché le 25 università istituite prima di quella di Praga furono istituite e dotate di privilegi solo da papi e re «e da questi ultimi per il loro regnum»; si veda R. Schmidt, *Päpstliche und kaiserliche Universitätsprivilegien im späten*

to scisma d'occidente del 1378 non rappresenta alcuna cesura, piuttosto – anche considerando possibilità tra loro concorrenti di legittimazione pontificia – costituì un fattore di accelerazione nel processo verso la definizione della seconda tipologia.

A questo proposito possono essere formulate alcune valutazioni collegate con la cosiddetta “seconda ondata di fondazioni” iniziata a partire dagli anni Cinquanta del XV secolo. Proprio guardando da una prospettiva romana appare discutibile la tesi di Ernst Schubert secondo la quale «nei territori tedeschi»<sup>7</sup> «la concessione di privilegi da parte del pontefice sarebbe divenuta una procedura puramente formale»<sup>8</sup>. Anzitutto bisogna osservare che, mentre nel caso delle prime fondazioni in Italia e in Francia non sempre si aspirò a ottenere privilegi pontifici<sup>9</sup>, per tutte le fondazioni avvenute nel territorio dell'Impero nel XV secolo si cercò di poter disporre di lettere di fondazione papali, ma non imperiali. A Basilea, dove si disponeva di un diploma imperiale, alla fine si rinunciò. Pur essendo documentati un po' ovunque privilegi imperiali per università, non si tratta in genere di nuove concessioni, ma della conferma di prerogative già esistenti<sup>10</sup>. Nell'Impero, fino al 1500 solo eccezionalmente – come nel caso del fallito tentativo di Lüneburg nel 1471 – la lettera di fondazione pontificia fu richiesta dopo la licenza dell'imperatore<sup>11</sup>. Solo i privilegi imperiali per le università di Francoforte sull'Oder nel 1500 e per Wittenberg nel 1502 evidenziano uno slittamento dalla legittimazione pontificia a quella imperiale<sup>12</sup>.

Su scala europea, considerando l'atto di fondazione delle università, si può constatare per quanto riguarda i territori imperiali un radicato orientamento verso la Curia. Chiaramente i soggetti attivi in ambito regionale partivano dal presupposto che per un nuovo istituto di studi superiori fosse necessaria la legittimazione di Roma e quindi un privilegio pontificio. Solo dopo tale autorizzazione signori territoriali e città passavano all'azione. Ma questo implicava anche che preliminarmente a ogni progetto si fosse condotta con successo una trattativa a Roma. Data la favorevole situazione documentaria, spesso si può quindi trovare riscontro nei documenti di Curia.

*Mittelalter*, in *Das Privileg im europäischen Vergleich*, a cura di B. Dölemeyer, H. Mohnhaupt, II, Frankfurt a. M. 1999 (Ius Commune Sonderhefte, 125), pp. 143-154, qui pp. 147 sg.

<sup>7</sup> Schubert, *Motive* cit., p. 14.

<sup>8</sup> *Ibidem*, p. 21. In modo diverso E. Schubert, *Zusammenfassung*, in *Attempo* cit., pp. 237-256, qui pp. 241 sgg.

<sup>9</sup> Schmidt, *Päpstliche und kaiserliche Universitätsprivilegien* cit., pp. 147 sgg.

<sup>10</sup> Si veda già G. Kaufmann, *Die Geschichte der deutschen Universitäten*, 2 voll., Stuttgart 1888 e 1896, qui I, pp. 344-409; Schmidt, *Päpstliche und kaiserliche Universitätsprivilegien* cit., p. 149.

<sup>11</sup> Su Lüneburg si veda S. Lorenz, *Fehlgeschlagen, gescheitert, erfolglos. Vergebliche Versuche von Universitätsgründungen in Regensburg, Lüneburg, Breslau und Pforzheim*, in *Attempo* cit., pp. 7-18, in particolare pp. 12 sgg.; Schmidt, *Päpstliche und kaiserliche Universitätsprivilegien* cit., p. 152.

<sup>12</sup> Nel caso di Wittenberg e Frankfurt sull'Oder i privilegi pontifici furono successivi a quelli del re o dell'imperatore: D. Stievernann, *Friedrich der Weise und seine Universität Wittenberg*, in *Attempo* cit., pp. 175-207, in particolare pp. 188 sg.; M. Kintzinger, *Frankfurt an der Oder. Eine*

In molti casi solo la consultazione delle fonti vaticane permette di comprendere quanto complessi e macchinosi fossero i processi di fondazione delle università tardomedievali. Quando si festeggiano anniversari delle università istituite nel tardo Medioevo, le lettere di fondazione e le conferme di benefici prodotte dalla cancelleria pontificia – purché conservate *in partibus* – rappresentano spesso i pezzi di maggior pregio utili alla celebrazione della ricorrenza. Le date di tali pergamene offrono certo i riferimenti indispensabili alla celebrazione di giubilei, ma l’emanazione di una bolla pontificia manifesta solo un momento di un lungo e contrastato processo decisionale e comunicativo, il cui successo del resto non era garantito sempre. Già Ernst Schubert notava in modo appropriato: «Il numero dei progetti di università a noi noti si accrescerà di certo con il procedere dei lavori relativi al *Repertorium Germanicum*; già i registri pontifici delle suppliche offrono la testimonianza documentaria per Pforzheim, Ratisbona e per il primo tentativo di fondazione di Magonza nel 1467»<sup>13</sup>. I collaboratori dell’Istituto Storico Germanico di Roma hanno infatti potuto illustrare in modo esemplare l’importanza delle fonti conservate nei fondi archivistici e nella Biblioteca Vaticana, e in particolare dimostrare il valore dei registri di Curia per gli aspetti qui discussi. Così Hermann Diener ha richiamato l’attenzione su fonti relative alla storia delle fondazioni universitarie in Alt-Ofen e a Nantes<sup>14</sup>. Sulle origini del progetto di fondazione dell’università di Magonza, poi, non ricaviamo quasi nulla dalle fonti *in partibus*<sup>15</sup>; e solo grazie ai dati contenuti nei registri delle suppliche conservati a Roma siamo informati del tentativo di fondazione di un istituto di studi superiori promosso dall’arcivescovo di Magonza Adolfo II di Nassau negli anni Sessanta del XV secolo, dopo aver conquistato la città, privata così in modo duraturo di quello *status* di relativa indipendenza che era riuscita fino a quel momento a tutelare<sup>16</sup>. Oltre alla fase progettuale ricostruita anche in questo caso da Diener, le fonti di Curia permettono tra l’altro di documentare un altro tenta-

*moderne Universität?*, in *Attempo cit.*, pp. 209-236, in particolare p. 219.

<sup>13</sup> Schubert, *Motive cit.*, p. 14. Si veda in particolare H. Diener, *Die Hohen Schulen, ihre Lehrer und Schüler in den Registern der päpstlichen Verwaltung des 14. und 15. Jahrhunderts*, in *Schulen und Studium im sozialen Wandel des hohen und späten Mittelalters*, a cura di J. Fried, Sigmaringen 1986 (Vorträge und Forschungen, 30), pp. 351-374.

<sup>14</sup> H. Diener, *Zur Geschichte der Universitätsgründungen in Alt-Ofen (1395) und Nantes (1423)*, in «Quellen und Forschungen aus italienischen Archiven und Bibliotheken», 42/43 (1963), pp. 265-284.

<sup>15</sup> L. Just †, H. Mathy, *Die Universität Mainz. Grundzüge ihrer Geschichte*, Trautheim, Mainz 1965, in particolare pp. 61 sgg.; J. Steiner, *Die Artistenfakultät der Universität Mainz 1477-1562. Ein Beitrag zur vergleichenden Universitätsgeschichte*, Stuttgart 1989 (Beiträge zur Geschichte der Universität Mainz, 14), in particolare pp. 12 sgg., 115 sgg.; H. Duchhardt, *Universität Mainz (1476/77)*, in *Attempo cit.*, pp. 147-155, qui in particolare pp. 147 sgg.; H. Büggeln, *Die Generalstatuten der Universität Mainz 1477-1561*, in «Mainzer Zeitschrift», 94/95 (1999/2000), pp. 111-166, qui in particolare pp. 112 sg.

<sup>16</sup> H. Diener, *Die Gründung der Universität Mainz 1467-1477*, Mainz 1974 (Abhandlungen der geistes- und sozialwissenschaftlichen Klasse, Akademie der Wissenschaften und der Literatur, 15). Per la storia della ricerca si veda anche A. Ludwig Veit, *Aus der Geschichte der Universität zu Mainz 1477-1731*, in «Historisches Jahrbuch», 40 (1920), pp. 106-136; H. Fleischer, *Quellen zur Frühgeschichte der Mainzer Universität im Vatikanischen Archiv*, in «Jahrbuch der Vereinigung „Freunde der Universität Mainz“», 16 (1967), pp. 64-71.

tivo di fondazione finora ignoto<sup>17</sup>. L'università fu aperta a Magonza solo con il successore di Adolfo, l'arcivescovo Diether di Isenburg nel 1477. Come ha potuto dimostrare Dieter Brosius, i registri delle suppliche offrono preziose informazioni anche per il fallito tentativo del marchese di Baden di fondare a Pforzheim un'università<sup>18</sup>.

Nell'iter di fondazione erano attivi accademici, oppure dotti consiglieri che giocavano un importante ruolo *in loco* o anche come procuratori a Roma. È questo il caso di Johannes di Lysura o meglio Lieser, un conterraneo di Nicola Cusano, in una prima fase della fondazione dell'università di Treviri<sup>19</sup>. Ma questo vale anche ad esempio per Matthäus Hummel a Friburgo, Johannes Nauclerus a Tubinga, Martin Mair a Ingolstadt, Georg Pfintzing a Magonza e altri<sup>20</sup>. Per alcuni di loro l'impegno comportò anche dei vantaggi personali. Così Albert di Ritmestorf, che nel 1364 su incarico del duca Rodolfo IV d'Austria espose al papa ad Avignone il desiderio di fondare un'università, divenne il primo rettore dell'istituzione viennese<sup>21</sup>. Nel caso di Würzburg nel 1402 il canonico di Neumünster, Arnold Herwig, saldò le somme dovute alla Curia per l'emanazione della bolla di fondazione dell'università; nel 1403 inoltre egli acquistò un edificio destinato alle lezioni di diritto. Tuttavia la fondazione dell'università di Würzburg fallì perché non poterono essere assicurati i benefici necessari<sup>22</sup>. Oltre alla concessione di benefici, a Roma si potevano ottenere concessioni importanti per la nascita di istituti superiori, che allo stesso tempo rimandano a interessanti sviluppi relativi alla storia della scienza. Così, quando nel 1482 si recò a Roma al seguito di Johannes Reuchlin, il conte Eberhard di Württemberg ottenne la licenza per utilizzare i cadaveri dei giustiziati per le lezioni di anatomia, sottoponendoli a dissezione<sup>23</sup>.

<sup>17</sup> Pubblicherò a breve uno studio su questo argomento.

<sup>18</sup> D. Brosius, *Papst Pius II. und der Markgraf Karl I. von Baden. Ein Nachtrag aus den päpstlichen Registern*, in «Freiburger Diözesan-Archiv», 92 (1972), pp. 161-176. Da ultimo Lorenz, *Fehlgeschlagen* cit., pp. 16 sg.

<sup>19</sup> Matheus, *Heiliges Jahr* cit., pp. 39 sg. Manca ancora uno studio di insieme su Johannes di Lysura.

<sup>20</sup> Su Matthäus Hummel a Freiburg si veda D. Speck, *Fürst, Räte und die Anfänge der Freiburger Universität*, in *Attempto* cit., pp. 55-111, in particolare pp. 79 sgg., 96 sgg. Su Johannes Nauclerus a Tübingen si veda D. Mertens, *Eberhard im Bart als Stifter der Universität Tübingen*, in *Attempto* cit., pp. 157-173, qui p. 166. Su Martin Mair a Ingolstadt Schubert, *Zusammenfassung* cit., pp. 244 sg. Su Georg Pfintzing, M. Matheus, *Roma e Magonza. Università italiane e tedesche nel XV e all'inizio del XVI secolo*, in «Bullettino dell'Istituto Storico Italiano per il Medio Evo», 108 (2006), pp. 123-163; Matheus, *Rom und die Frühgeschichte der Mainzer Universität* cit., pp. 224 sgg.

<sup>21</sup> Diener, *Zur Geschichte der Universitätsgründungen* cit., pp. 271 sg.

<sup>22</sup> C. Hesse, *Pfründen, Herrschaften und Gebühren. Zu Möglichkeiten spätmittelalterlicher Universitätsfinanzierung im Alten Reich*, in *Finanzierung von Universität und Wissenschaft in Vergangenheit und Gegenwart*, a cura di R.C. Schwinges, Basel 2005 (Veröffentlichungen der Gesellschaft für Universitäts- und Wissenschaftsgeschichte, 6), pp. 57-86, qui p. 68.

<sup>23</sup> L. Schmugge, *Leichen für Heidelberg und Tübingen*, in *Staat, Kirche, Wissenschaft in einer pluralistischen Gesellschaft. Festschrift zum 65. Geburtstag von Paul Mikat*, a cura di D. Schwab, D. Giesen, J. Listl, Berlin 1989, pp. 411-418; A. Esch, *Wahre Geschichten aus dem Mittelalter. Kleine Schicksale selbst erzählt in Schreiben an den Papst*, München 2010, p. 65.

## 2. *Le finanze universitarie*

Oggi il tema di un adeguato finanziamento del sistema universitario è di grande interesse mediatico; per quanto riguarda le università medievali nel territorio dell'Impero tali questioni hanno invece un'importanza piuttosto marginale secondo le conclusioni raggiunte dalla ricerca più recente<sup>24</sup>.

D'altro canto, approfondire tale aspetto non è affatto impresa da poco. Le fonti sono disperate, e molto di ciò che documentava le modalità di finanziamento dell'epoca non è stato giudicato degno di conservazione. Come la storia della fondazione così anche la storia del finanziamento di un'università nell'Impero nel tardo medioevo si configura come un processo molto tormentato, contraddistinto da alti e bassi. Nel momento in cui l'attività di insegnamento di una *Alma mater* veniva solennemente avviata, di regola non vi era ancora a disposizione una sicura dotazione finanziaria. Lo sforzo per ottenere una solida base materiale poteva prolungarsi per anni.

Nel Medioevo si era molto lontani dalla struttura economico-fiscale delle moderne istituzioni educative. Comunque bisogna considerare che le *universitates* non rappresentavano organismi unitari né dal punto di vista istituzionale né finanziario, ma erano formate da diverse unità, facoltà e nazioni, collegi e fondazioni, che possedevano e amministravano proprie entrate. Alcune università approfittavano anche dei docenti impegnati presso gli *studia* degli ordini mendicanti. Va segnalata l'esistenza di complessi sistemi di finanziamento misti<sup>25</sup>, che spesso hanno conservato un ruolo significativo anche ben oltre il Medioevo. Quelli che oggi noi consideriamo guadagni secondari, rappresentavano all'epoca, soprattutto nel caso dei giuristi attivi come periti, ambasciatori, amministratori, le fonti di entrata principali. Tra il piccolo gruppo dei giuristi e medici ben stipendiati e i molti *magistri artium* più o meno pagati c'era un bello scarto sia dal punto di vista economico sia per *status* e prestigio sociale. Sussidi dalle casse cittadine e signorili<sup>26</sup> potevano svolgere un ruolo importante per le risorse universitarie accanto a tasse e lasciti. Ma diversamente da quanto accadeva in Italia, dove oltre alle tasse e alle *collectae* imposte dalle università stesse le città e gli stati che si stabilirono nel corso del Medioevo finanziavano in modo crescente le università, nel territorio dell'Impero a nord delle Alpi le università rimasero in larga parte dipendenti finanziariamente da rendite ecclesiastiche<sup>27</sup>. Questo vale in certa misura anche

<sup>24</sup> J. Miethke, *Kirche und Universitäten. Zur wirtschaftlichen Fundierung der deutschen Hochschulen im Spätmittelalter*, in *Litterae medii aevi. Festschrift für Johanne Autenrieth zu ihrem 65. Geburtstag*, a cura di M. Borgolte, H. Spilling, Sigmaringen 1988, pp. 265-276; ristampa in J. Miethke, *Studieren an mittelalterlichen Universitäten. Chancen und Risiken. Gesammelte Aufsätze*, Leiden, Boston 2004 (Education and society in the Middle Ages and Renaissance, 19), pp. 157-174; *Finanzierung von Universität und Wissenschaft* cit.

<sup>25</sup> E. Meuthen, *Kölner Universitätsgeschichte*, I: *Die alte Universität*, Köln, Wien 1988, p. 32.

<sup>26</sup> Hesse, *Pfründen* cit., qui pp. 60 sgg.

<sup>27</sup> Matheus, *Roma e Magonza* cit., in particolare pp. 138 sg. Si veda anche A. Romano, *Dall'università degli studenti all'università degli studi: modelli di finanziamento delle università italiane fra medioevo ed età moderna*, in *Finanzierung von Universität und Wissenschaft* cit., pp. 33-56.



per Francia e Inghilterra, ma qui la ricerca andrebbe notevolmente approfondita<sup>28</sup>. Recentemente Jacques Verger ha affermato che la storia economica e finanziaria anche delle università francesi in epoca premoderna è ancora da scrivere<sup>29</sup>. Tra i titolari di benefici figurano non solo molti docenti, ma anche numerosi chierici che con le entrate delle loro prebende finanziavano i propri studi. Per entrambi i gruppi le serie dei registri di Curia – documentando le collazioni beneficarie – costituiscono una fonte irrinunciabile.

L'assegnazione di benefici a università da fondare e a coloro che vi insegnavano presupponeva disposizioni papali. Spesso veniva selezionato un determinato numero di canonici presso alcune chiese collegiate e/o singole parrocchie, che dovevano servire a finanziare in modo costante l'attività di insegnamento. Le università tendevano inoltre di norma a rivendicare il diritto di patronato o meglio di presentazione. La mancata disponibilità di un certo numero di benefici era non di rado un importante motivo per il fallimento di un progetto di fondazione universitaria e oltre ai rapporti di forza in loco era di decisiva importanza anche il successo sul mercato beneficiario romano.

Talvolta, come a Greifswald, Ingolstadt e Tubinga (e progetti analoghi furono portati avanti a Friburgo, Pforzheim e Ratisbona), i beni di intere collegiate o conventi furono conferiti in un fondo le cui entrate dovevano assicurare il dovuto compenso ai professori<sup>30</sup>. In singoli casi nella seconda metà del XV secolo anche alcuni laici in quanto titolari di insegnamenti approfittarono di simili soluzioni<sup>31</sup>. Già prima della riforma protestante in alcuni luoghi l'intero patrimonio di istituzioni ecclesiastiche fu assegnato durevolmente a università, ma solo dal XVI secolo beni ecclesiastici secolarizzati furono destinati su larga scala a scopi universitari nei territori divenuti protestanti.

Tuttavia in genere non abbiamo a che fare con una solida dotazione iniziale di benefici. Per il finanziamento dei professori di Colonia, per esempio, papa Bonifacio IX nel 1394 riservò a ciascuno una prebenda presso il duomo e nelle altre dieci chiese collegiate della città<sup>32</sup>. Ma, e non solo in questo caso, non sempre si riuscì a concretizzare ciò che sulla carta era ufficialmente stabilito; o si poteva disporne solo in misura ridotta. Spesso passava molto tempo prima che il beneficio assegnato potesse essere effettivamente goduto per lo scopo previsto; spesso bisognava aspettare che divenisse vacante. Gli altri aspiranti a quei benefici, ma anche le collegiate interessate, opponevano di frequente una lunga resistenza, perché reclamavano i propri diritti di conferimento, volevano sistemare i loro candidati o negoziare la propria rinuncia.

<sup>28</sup> J. Verger, *Besoins et ressources financières des universités et des collèges en France et en Angleterre des origines à 1800*, in *Finanzierung von Universität und Wissenschaft* cit., pp. 15-32; si veda anche T. Schmidt, *Pariser Magister des 14. Jahrhunderts und ihre Pfründen. Mit Edition eines universitären Supplikenrotulus*, in «Francia», 14 (1986), pp. 103-138.

<sup>29</sup> Verger, *Besoins* cit., p. 31.

<sup>30</sup> Schubert, *Zusammenfassung* cit., p. 239.

<sup>31</sup> Hesse, *Pfründen* cit., p. 64.

<sup>32</sup> Meuthen, *Kölner Universitätsgeschichte* cit., pp. 62 sgg.

L'università di Friburgo per esempio cercò per decenni di ottenere l'incorporazione di quei dodici benefici parrocchiali che erano stati prospettati durante il procedimento di fondazione. Le difficili trattative causavano notevoli spese. Anche quando l'incorporazione aveva successo, le pensioni per coloro che rinunciavano portavano a ingenti aggravii. Per esempio l'incorporazione del ricco beneficio parrocchiale di Ehingen, ottenuta solo dopo alcuni decenni dalla fondazione dell'università, comportò successivamente il pagamento di una notevole pensione al curiale Melchiorre di Meckau<sup>33</sup>. Le trattative a Roma si prolungarono per anni e furono fonte per l'università di ingenti esborsi di denaro<sup>34</sup>. A Colonia, come altrove, il diritto di presentazione nell'assegnazione di benefici, che spettava al rettore dell'università oltre che a quattro provvisori cittadini, fu spesso trascurato. Nel XV e XVI secolo università e città si rivolsero ripetutamente alla Curia, affinché fossero confermati all'università altri benefici, dato che la dotazione originaria era venuta meno. E così si avviarono estenuanti trattative a Roma e i risultati non furono assolutamente soddisfacenti per l'università. Non è solo la storia iniziale di un'università istituita nel territorio dell'Impero, dunque, a essere caratterizzata dalla contesa per i benefici, risorsa irrinunciabile per il sostegno materiale di ciascun istituto universitario. I contrasti legati al loro possesso (finora raramente indagati in modo dettagliato) costituiscono una parte della storia dell'università in generale. Tali controversie venivano condotte anche a Roma, lasciando tracce nella documentazione che là si conserva, nel caso in cui fossero toccati o venissero comunque chiamati in causa i diritti di riserva pontifici.

Le differenze qui accennate tra l'Italia, da una parte, e gran parte dei territori transalpini dall'altra, devono senza dubbio essere ancor meglio individuate. Ma già a scopi euristici è comunque interessante distinguere tra una tipologia di università che si sostiene finanziariamente grazie ai benefici nell'Impero o meglio in gran parte dei territori a nord delle Alpi e un modello di università finanziato con tasse e denaro pubblico in Italia.

Questo dato rimanda del resto ad altre questioni, fino a oggi discusse in modo poco approfondito, delle quali si è già parlato in altra sede e cui si accennerà solo in forma di domande, dato che vanno ben oltre il tema qui trattato<sup>35</sup>. Le specifiche forme di finanziamento del personale docente nell'Impero e il loro più profondo radicamento nell'ambito ecclesiastico possono contribuire a definire anche caratteristiche specifiche e differenze nei contenuti? I più concordano nel ritenere che le università dell'Impero sono da ritenersi «istituzioni vicine alla chiesa»<sup>36</sup>. Rainer Christoph Schwinges

<sup>33</sup> C. Bauer, *Die wirtschaftliche Ausstattung der Freiburger Universität in ihrer Gründungsperiode. Eine Studie zur kirchlichen Rechts- und Wirtschaftsgeschichte des 15. Jahrhunderts*, in C. Bauer, *Gesammelte Aufsätze zur Wirtschafts- und Sozialgeschichte*, Freiburg im Breisgau, Basel 1965, pp. 148-185, in particolare pp. 173, 175, 177.

<sup>34</sup> Bauer, *Die wirtschaftliche Ausstattung* cit., pp. 171 sgg.

<sup>35</sup> Matheus, *Roma e Magonza* cit., in particolare pp. 136 sgg.

<sup>36</sup> N. Hammerstein, *Bildung und Wissenschaft vom 15. bis 17. Jahrhundert*, München 2003 (Enzyklopädie deutscher Geschichte, 64), p. 70.

osserva che il numero dei giuristi nelle università dell'Impero era relativamente ristretto e si trattava in grandissima maggioranza di canonisti. Dal canto suo egli parla, con tono leggermente provocatorio, con riferimento all'Italia e all'Impero di un mondo «comunale» e di un mondo «clericale» che sono l'uno in contrasto con l'altro<sup>37</sup>. Che conseguenze avevano tali differenze strutturali nelle forme di finanziamento delle università per la mentalità dei rispettivi docenti, non solo rispetto ai contenuti che trasmettevano ma anche con riferimento agli ambienti nei quali erano inseriti e ai comportamenti da essi adottati? Ricerche dedicate alla ricostruzione delle biografie di tali persone sarebbero di grande utilità nel contesto di indagini sui processi di diffusione del pensiero umanistico. E di certo non si può trascurare il riferimento alle fonti di Curia.

### 3. *Carriere accademiche*

Nella sua dissertazione pubblicata nel 2007 sugli studenti universitari provenienti dalla diocesi di Costanza tra il 1430 e il 1550, Beat Immenhauser presenta dati relativi a circa 15.000 (precisamente 14.812) originari della diocesi per i quali può essere documentata una formazione accademica. L'autore si pone in particolare la questione se si possano stabilire collegamenti tra il conseguimento di una formazione universitaria e la posizione professionale. Egli può confermare relazioni di questo genere, accanto alle università stesse, «anche per i dotti consiglieri e i giudici, per i medici e i predicatori comunali, come pure per i titolari di dignità ecclesiastiche e i predicatori incaricati dalle città»<sup>38</sup>. In questa sede non possiamo soffermarci in modo dettagliato su questo studio, come pure sulla proposta «di distinguere tra ascesa professionale e ascesa sociale» rispetto alla questione della promozione sociale attraverso l'educazione<sup>39</sup>. In un punto essenziale la dissertazione conferma, dalla prospettiva della diocesi di Costanza – un territorio che intorno al 1500 era in confronto al resto dell'Impero fortemente permeato di sapere accademico – un dato già ripetutamente rilevato. Sulle possibilità di carriera di coloro che avevano conseguito un titolo accademico nell'ambito della Chiesa latina, come pure sull'alta percentuale di chierici tra i frequentatori delle università, per quanto riguarda il territorio dell'Impero hanno già richiamato l'attenzione Herrmann Diener<sup>40</sup>, Andreas Meyer<sup>41</sup>, Peter Moraw<sup>42</sup>, Jürgen

<sup>37</sup> Schwinges, *Das Reich im gelehrten Europa* cit., p. 245.

<sup>38</sup> B. Immenhauser, *Bildungswege – Lebenswege. Universitätsbesucher aus dem Bistum Konstanz im 15. und 16. Jahrhundert*, Basel 2007 (Veröffentlichungen der Gesellschaft für Universitäts- und Wissenschaftsgeschichte, 8), p. 509.

<sup>39</sup> Immenhauser, *Bildungswege* cit., p. 513.

<sup>40</sup> Diener, *Die Hohen Schulen* cit.

<sup>41</sup> A. Meyer, *Zürich und Rom. Ordentliche Kollatur und päpstliche Provisionen am Frau- und Großmünster 1316-1513*, Tübingen 1986 (Bibliothek des Deutschen Historischen Instituts in Rom, 64).

<sup>42</sup> P. Moraw, *Stiftspfründen als Elemente des Bildungswesens im spätmittelalterlichen Reich*, in

Miethke<sup>43</sup>, Robert Gramsch<sup>44</sup> e altri da differenti prospettive. Importanti per la ricerca sulle carriere accademiche sono certamente nel XIV secolo i *rotuli* delle suppliche che si sono conservati per università e facoltà, raramente in originale, più spesso nella trascrizione contenuta nei registri di Curia. In tali liste, pervenuteci soprattutto per il XIV e l'inizio del XV secolo<sup>45</sup>, si possono trovare talora centinaia di nomi di studenti e insegnanti con dati specifici su ciascuno<sup>46</sup>. Per la diocesi di Costanza l'autore afferma (riferendosi in ogni caso al periodo precedente la riforma) «che nessun altro ambito di attività assunse per coloro che avevano studiato all'università un'importanza paragonabile a quella della Chiesa. Quasi i quattro quinti di tutti coloro che frequentavano l'università, di cui conosciamo la carriera, partecipavano in qualche modo al sistema beneficiario»<sup>47</sup>.

È tanto più sorprendente perciò che Beat Immenhauser non abbia considerato neppure per i primi decenni del periodo in cui si rivolge la sua ricerca, dal 1430 al 1471, i dati dei registri di Curia messi a disposizione dai volumi già pubblicati di RG e RPG. Di essi si tiene conto solo indirettamente attraverso la consultazione di studi che dal canto loro utilizzano queste fonti romane, come ad esempio i volumi di *Germania Sacra* come anche di *Helvetia Sacra*. A differenza di altri lavori più recenti, come quelli di Robert Gramsch sui giuristi di Erfurt nel tardo medioevo e di Ad Tervoort<sup>48</sup> sugli studenti «dei Paesi Bassi» nel XV e XVI secolo in Italia che hanno reso disponibili le loro schedature documentarie tramite CD ROM, si è rinunciato in questo caso a dare

*Studien zum weltlichen Kollegiatstift in Deutschland*, a cura di I. Crusius, Göttingen 1995 (VMPIG-Vorlesungen Max-Planck Institut für Geschichte, 114, Studien zur Germania Sacra, 18), pp. 270-297; P. Moraw, *Stiftskirchen im deutschen Sprachraum. Forschungsstand und Forschungshoffnungen*, in *Die Stiftskirche in Südwestdeutschland: Aufgaben und Perspektiven der Forschung*. Erste wissenschaftliche Fachtagung zum Stiftskirchenprojekt des Instituts für Geschichtliche Landeskunde und Historische Hilfswissenschaften der Universität Tübingen (17.-19. März 2000, Weingarten), a cura di S. Lorenz, O. Auge, Leinfelden-Echterdingen 2003 (Schriften zur südwestdeutschen Landeskunde, 35), pp. 55-71.

<sup>43</sup> J. Miethke, *Karrierchancen eines Theologiestudiums im späteren Mittelalter*, in *Gelehrte im Reich. Zur Sozial- und Wirkungsgeschichte akademischer Eliten des 14. bis 16. Jahrhunderts*, a cura di R.C. Schwinges, Berlin 1996 (Zeitschrift für Historische Forschung, Beiheft 18), pp. 181-210. Da ultimo in Miethke, *Studieren an mittelalterlichen Universitäten* cit., pp. 97-131.

<sup>44</sup> R. Gramsch, *Kurientätigkeit als ‚Berufsbild‘ gelehrter Juristen. Der Beitrag Roms zur Akademisierung Deutschlands im Spätmittelalter. Eine personengeschichtliche Betrachtung*, in «Quellen und Forschungen aus italienischen Archiven und Bibliotheken», 80 (2000), pp. 117-163; R. Gramsch, *Erfurter Juristen im Spätmittelalter. Die Karrieremuster und Tätigkeitsfelder einer gelehrten Elite des 14. und 15. Jahrhunderts*, Leiden, Boston 2003 (Education and society in the Middle Ages and Renaissance, 17), p. 57.

<sup>45</sup> Diener, *Die Hohen Schulen* cit., pp. 360 sgg.

<sup>46</sup> D.E.R. Watt, *University Clerks and Rolls of Petitions for Benefices*, in «Speculum», 34 (1959), pp. 213-229; Diener, *Die Hohen Schulen* cit., in particolare pp. 359 sgg.; Schmidt, *Pariser Magister* cit.; J. Schmutz, *Erfolg oder Misserfolg. Die Supplikenrotuli der Universitäten Heidelberg und Köln 1398-1425 als Instrumente der Studienfinanzierung*, in «Zeitschrift für Historische Forschung», 23 (1996), pp. 145-167.

<sup>47</sup> Immenhauser, *Bildungswege* cit., p. 256.

<sup>48</sup> Ad Tervoort, *The iter italicum and the northern Netherlands. Dutch students at Italian universities and their role in the Netherlands' society (1426-1575)*, Leiden, Boston 2005 (Education and society in the Middle Ages and Renaissance, 21).

un'indicazione dettagliata delle fonti. Perciò il lettore non può verificare quali conseguenze derivino dall'aver trascurato i dati degli archivi romani. Quanto sia profondo l'intreccio tra testimonianze *in partibus* e fonti curiali nel caso di studi prosopografici di questo tipo è stato invece mostrato da Robert Gramsch nell'esemplare ricerca prima citata. Egli analizza un gruppo di studenti di diritto dell'università di Erfurt, una delle maggiori e più rinomate nell'ambito dell'Impero, per il periodo dal 1392 al 1509. Delle 710 persone considerate circa il 75% è menzionata nelle fonti curiali almeno una volta, ma la maggior parte è citata più spesso<sup>49</sup>. Queste cifre dimostrano quali distorsioni si possono determinare in una ricerca su questi temi, qualora non si prendano in considerazione i documenti di Curia. Allo stesso tempo in una prospettiva di storia della formazione e dell'università la ricerca di Gramsch sul caso di Erfurt dimostra quali possibilità di collegamento tra le fonti vaticane e quelle conservate nei singoli territori dell'Impero si potrebbero determinare nel momento in cui si rendesse disponibile la banca-dati relativa ad entrambi repertori elaborata con codifica XML<sup>50</sup>.

Da queste banche-dati è lecito aspettarsi qualcosa anche per il tema di cui ci stiamo occupando, perché si offrono possibilità ancora da valutare a fondo quanto a relazioni e collaborazioni. Questo vale anzitutto per il progetto di ricerca portato avanti dalla Commissione storica presso l'Accademia bavarese delle scienze: il *Repertorium Academicum Germanicum* (RAG) che si sta realizzando sotto la guida di Peter Moraw e Rainer C. Schwinges. Gli ideatori e i collaboratori si sono posti un obiettivo ambizioso: nella banca-dati dovrebbero essere inseriti i nomi di dotti, teologi, giuristi, medici e *magistri artium* per l'intero territorio dell'antico Impero, laureatisi tra il 1250 e il 1550 presso università tedesche e straniere, con dati relativi alla provenienza, agli studi compiuti e alla loro vita<sup>51</sup>. Un collegamento di questa banca-dati con le matricole conservatesi in gran numero per il territorio dell'Impero (si tratta di una fonte unica in ambito europeo), e inoltre con le informazioni contenute nei registri di Curia potrebbe o meglio dovrebbe condurre a livelli superiori nell'analisi delle fonti, consentendo di affrontare anche questioni alle quali per ora non si è ancora affatto pensato o che al momento non sono comunque al centro dell'interesse.

Considerando le carriere accademiche Ludwig Schmutge indica due campi di indagine per i quali i registri di Curia offrono preziose informazio-

<sup>49</sup> Gramsch, *Erfurter Juristen* cit., in particolare pp. 110 sgg.

<sup>50</sup> Sui diversi progetti di banche dati in corso presso l'Istituto Storico Germanico di Roma in stretta collaborazione tra scienze storiche e informatiche si veda *Bleibt im Vatikanischen Geheimarchiv vieles zu geheim? Historische Grundlagenforschung in Mittelalter und Neuzeit*. Beiträge zur Sektion des Deutschen Historischen Instituts (DHI) Rom, organisiert in Verbindung mit der Westfälischen Wilhelms-Universität Münster, Seminar für Mittlere und Neue Kirchengeschichte. 47. Deutscher Historikertag, Dresden 30. September-3. Oktober 2008, a cura di M. Matheus e H. Wolf, Rom 2009, anche all'url < [http://www.dhi-roma.it/Historikertag\\_Dresden.html](http://www.dhi-roma.it/Historikertag_Dresden.html) >.

<sup>51</sup> [www.rag-online.org](http://www.rag-online.org).

ni<sup>52</sup>: in particolare in essi troviamo notizie sugli studi compiuti da religiosi. Dispense erano infatti richieste da monaci che contro la volontà o senza il permesso del loro superiore terminavano o volevano terminare un corso di studi. Numerosi sono inoltre i dati per studenti che volevano ottenere per motivi di studio una dispensa dal dovere di residenza. Certo con la decretale di papa Bonifacio VIII *Cum ex eo* si erano poste le premesse fondamentali per permettere ai chierici dotati di benefici di frequentare un corso universitario. Studenti e laureati erano perciò fondamentalmente esonerati per un periodo fino a sette anni dall'obbligo di residenza e dallo svolgimento in prima persona dei doveri liturgici e di cura d'anime connessi con i loro benefici ed erano anche dispensati dal ricevere gli ordini sacerdotali. Il beneficio ecclesiastico, che non era stato assolutamente istituito per scopi universitari, fu adattato ad assolvere specifiche esigenze della vita universitaria. Gli studenti godevano perciò di un periodo di congedo, dotati al tempo stesso di copertura finanziaria continua. Sulla base delle fonti curiali si può affermare con sicurezza che non pochi avevano intrapreso un corso di studi senza la necessaria licenza, e gli interessati si rivolgevano perciò alla fonte pontificia della grazia per ottenere la dispensa. In altri casi era stato loro negata la licenza dal vescovo del luogo, cui ci si rivolgeva in prima istanza, e i supplicanti cercavano di assicurarsi attraverso *litterae* papali le entrate beneficarie necessarie per un corso di studi. Ad altri non bastava il periodo massimo previsto di sette anni e si cercava di allungare la durata della copertura finanziaria garantita dal beneficio. E ancora altri erano titolari di benefici connessi con la cura d'anime e volevano ottenere il permesso di studiare diritto civile, nonostante ciò fosse loro proibito da una decretale di Onorio III. Le registrazioni presenti nei volumi di Curia contengono indicazione anche del luogo di studio di ciascuno e notiamo che non sono menzionate solo università del territorio dell'Impero ma anche sedi universitarie italiane.

#### 4. Roma come centro di studi

La ricerca relativa alla storia delle università italiane per il periodo medievale e rinascimentale si concentra soprattutto sulle istituzioni dell'Italia centro-settentrionale. La capacità di attrazione di Roma, che pur provvisoriamente si dota tuttavia con lo *Studium Urbis* e l'università di Curia di due istituti di studi superiori, per gli accademici provenienti da oltralpe è stata finora poco indagata. Quindi è per ora difficile determinare l'importan-

<sup>52</sup> L. Schmugge, *Über die Pönitentarie zur Universität, in Personen der Geschichte - Geschichte der Personen. Studien zur Kreuzzugs-, Sozial- und Bildungsgeschichte. Festschrift für Rainer Christoph Schwinges zum 60. Geburtstag*, a cura di C. Hesse, B. Immenhauser, O. Landolt, B. Studer, Basel 2003, pp. 255-268; L. Schmugge, *Gelehrte und Studenten in den Vatikanischen Registern*, in *Über Mobilität von Studenten und Gelehrten zwischen dem Reich und Italien (1400-1600) - Della mobilità degli studiosi e eruditi fra il regno e l'Italia (1400-1600)*, a cura di S. Andresen e R.C. Schwinges (Repertorium Academicum Germanicum [RAG] - Forschungen, 1), e-book in preparazione.

za delle università romane nel contesto europeo. Tale circostanza è strettamente connessa con il fatto che le fonti locali utili a tracciare la storia di queste università sono andate in gran parte disperse<sup>53</sup>.

Nel 2003 avevo richiamato l'attenzione sulle possibilità offerte anche in questo caso dai registri di Curia<sup>54</sup>. Un progetto su Roma quale centro di studi fornirà un contributo per colmare tali lacune nelle fonti e nella ricerca. L'iniziativa si collega a precedenti ricerche promosse dall'Istituto Storico Germanico di Roma, oltre a quelle di Fritz Weigle che già aveva parlato di «Roma con le sue particolari condizioni»<sup>55</sup>, alle opere del citato Hermann Diener<sup>56</sup>, ma anche ai più recenti contributi di Christiane Schuchard<sup>57</sup> e Robert Gramsch<sup>58</sup>.

L'espressione «centro di studi» vorrebbe indicare che, oltre all'università di Curia e allo *Studium Urbis*, devono essere considerate anche altre istituzioni educative, tanto più che non solo presso di esse si potevano conseguire gradi accademici, e non si tratta assolutamente solo di prospettive storico-istituzionali. Devono inoltre essere menzionate anche biblioteche, come la Biblioteca Vaticana fondata nel XV secolo, i *collegia* recentemente studiati da Anna Esposito e Carla Frova, gli *studia* degli ordini mendicanti, l'accademia di Pomponio Leto, come pure in linea del tutto generale i circoli umanistici sorti tra XV e XVI secolo<sup>59</sup>.

<sup>53</sup> Si veda da ultimo con riferimenti alla bibliografia precedente: Matheus, *Roma e Magonza* cit.; A. Esposito, *Una laurea in legge rilasciata a Roma nel 1522*, in «RR. Roma nel Rinascimento. Bibliografia e note», (2006), pp. 107-114; C. Frova, *Fonti per la storia dell'istruzione superiore a Roma nel Quattrocento: la registrazione notarile di una laurea in teologia*, in *Scritti per Isa. Raccolta di studi offerti a Isa Lori Sanfilippo*, a cura di A. Mazzon, Roma 2008 (Nuovi Studi Storici, 76), pp. 475-486; A. Rehberg, *Dottori per "vie traverse". Qualche spunto sulle lauree conferite in ambito curiale*, in «Quellen und Forschungen aus italienischen Archiven und Bibliotheken», 89 (2009), pp. 183-215; A. Rehberg, *Un attestato di frequenza allo Studium Urbis in tempi difficili (1507/09)*, in *Ludicra per Paola Farenga*, a cura di M. Chiabò, M. Gargano, A. Modigliani, Roma 2009, pp. 21-28; A. Esposito, M. Matheus, *Maestri e studenti presso gli studia a Roma nel Rinascimento, con particolare riferimento agli studenti ultramontani*, in *Über Mobilität von Studenten und Gelehrten zwischen dem Reich und Italien (1400-1600) – Della mobilità degli studiosi e eruditi fra il regno e l'Italia (1400-1600)*, a cura di S. Andresen e R.C. Schwinges (Repertorium Academicum Germanicum [RAG] - Forschungen, 1), e-book in preparazione.

<sup>54</sup> Matheus, *Roma e Magonza* cit., in particolare pp. 145 sg.

<sup>55</sup> F. Weigle, *Deutsche Studenten in Italien*, in «Quellen und Forschungen aus italienischen Archiven und Bibliotheken», 32 (1942), pp. 10-188, qui p. 113. Si veda anche M. Matheus, *Universitari di area germanica nel tardo medioevo e nel rinascimento. Annotazioni storiografiche*, in *Studi offerti a Maria Consiglia De Matteis in occasione del suo settantesimo compleanno*, a cura di B. Pio, in corso di stampa.

<sup>56</sup> Si vedano anche gli studi citati alle note 13, 14, 16.

<sup>57</sup> C. Schuchard, *Die Deutschen an der päpstlichen Kurie im späten Mittelalter (1378-1447)* (Bibliothek des Deutschen Historischen Instituts in Rom, 65), Tübingen 1987, in particolare pp. 204 sg.

<sup>58</sup> Si vedano anche gli studi citati alla nota 44.

<sup>59</sup> Si veda anche come studio d'insieme M. Matheus, *Roma docta: Rom als Studienort in der Renaissance*, in «Quellen und Forschungen aus italienischen Archiven und Bibliotheken», 90 (2010), in corso di stampa.

Tra l'altro Brigide Schwarz è attualmente impegnata a indagare la storia sia dello *Studium Urbis* sia dell'università di Curia (nelle sue diverse sedi di Roma, Avignone e Basilea) per il XIV secolo e per i primi decenni del XV fino alla morte di papa Paolo II, basandosi su un ampio corredo di fonti<sup>60</sup>.

Quindi concludendo e allo stesso tempo proponendo nuovi spunti prenderemo in considerazione entrambe le università in particolare dalla metà del XV secolo. Dopo i grandi concili riformatori della prima metà del secolo, dopo il rientro di papa Felice V e la fine dell'ultimo scisma, Roma divenne come è noto la città rinascimentale dei papi. Questo comportò per le due istituzioni universitarie tutta una serie di conseguenze sulle quali non possiamo soffermarci. Là insegnarono dalla metà del XV secolo celebri umanisti come Pomponio Leto, la cui fama si diffuse anche a nord delle Alpi<sup>61</sup>.

La capacità di attrazione di Roma quale centro di studi in confronto ad altre sedi universitarie italiane frequentate da *Ultramontani* può essere tratteggiata tutt'al più in una prima approssimazione. Per quanto riguarda il gruppo di 710 studenti di diritto dell'università di Erfurt indagati da Robert Gramsch per il periodo 1392-1509, per quasi un terzo di essi (280 persone) può essere documentato un periodo di studio in Italia. Il numero degli studenti italiani tra i giuristi di Erfurt cresce nel corso del XV secolo. Bologna è la più frequentata (172 persone), seguono le università di Padova (57), Pavia (29), Ferrara (22) e Roma (15)<sup>62</sup>. Secondo una prima analisi dei registri delle Penitenzierie anche i chierici lì nominati preferivano Bologna e studiavano anche in sedi come Siena, Pavia, Padova, Perugia come pure presso l'università di Curia a Roma<sup>63</sup>. In base alla frequenza con la quale nei registri sono nominate le università italiane si possono trarre conclusioni, ma solo molto parziali, sul favore attribuito a ciascuna sede dai frequentatori provenienti dalle regioni transalpine.

Chi vuole seguire le tracce di quegli *Ultramontani* che approfittavano delle possibilità di formazione offerte dalla sempre più cosmopolita sede romana troverà ricco materiale anche negli archivi non italiani, dove si possono reperire dati relativi a soggiorni di studio e al conseguimento di gradi accademici. Sono comunque molto dispersi e non facili da scoprire. Informazioni preziose sono contenute nei registri dei capitoli che ci sono pervenuti<sup>64</sup>. E così un canonico su quattro del capitolo di Santa Maria di

<sup>60</sup> La pubblicazione del volume è prevista per il 2011.

<sup>61</sup> M. Matheus, Pomponius Letus e gli Ultramontani, in *Pomponio Leto e la prima Accademia Romana*. Giornata di studi, Roma, 2 dicembre 2005, a cura di C. Cassiani, M. Chiabò, Roma 2007, pp. 47-60.

<sup>62</sup> Gramsch, *Erfurter Juristen* cit., p. 110: «Queste cifre derivano certamente anche da situazioni molto diverse quanto alla disponibilità di fonti, che per Bologna è ampia, per Padova e Pavia copre almeno alcuni periodi più lunghi del XV secolo e per Ferrara consente di documentare le lauree, mentre è del tutto carente per le due università romane. Tuttavia la gerarchia proposta potrebbe reggere, prescindendo dal declassamento di Roma».

<sup>63</sup> Schmugge, *Über die Pönitentarie* cit., pp. 264 sg.

<sup>64</sup> Matheus, *Roma e Maganza* cit.; Matheus, *Roma docta* cit. Per il caso di Peter (Wimar, Wymar) di Erkelenz si veda Matheus, *Nikolaus von Kues, seine Familiaren und die Anima*, in *Santa*



Aquisgrana ottenne tra il 1400 e il 1614 un grado accademico nell'ambito delle scienze giuridiche, circa un terzo potrebbe aver portato a termine un corso di studi di diritto. Per il periodo tra il 1350 al 1600 possono essere indicate le seguenti cifre per i frequentatori di università italiane: Bologna 20, Roma 11, Siena 9, Padova 8, Pavia 5, Pisa e Ferrara rispettivamente 2<sup>65</sup>.

Ricerche sulla capacità di attrazione di Roma quale centro di studi non dovrebbero concentrarsi solo su accademici provenienti dal territorio dell'Impero, come confermerebbe un sia pur rapido sguardo alla Polonia. Durante il periodo tra il 1428 e il 1500 abbiamo per il capitolo del duomo di Poznań i seguenti numeri di prelati e canonici che studiarono presso università italiane: Roma 14, Bologna 14, Padova 6, Italia (senza ulteriori specificazioni) 4<sup>66</sup>.

A questo riguardo RG e RPG rappresentano una fonte finora poco utilizzata. Nelle procedure per conseguire l'assegnazione di benefici si citano spesso i gradi accademici e talvolta anche le università presso le quali erano stati conseguiti. Il richiamo a titoli accademici poteva costituire un vantaggio<sup>67</sup> per ottenere un beneficio e questi non di rado sono citati nei registri delle suppliche. Che cosa comportasse indicare la sede di studio, in particolare Roma, è questione che richiederebbe anch'essa una ricerca sistematica, per la quale le possibilità offerte dalle banche dati potrebbero essere di grande aiuto.

In ogni caso grazie ai registri di Curia pervenutici può essere documentata tutta una serie di studenti, singolarmente considerati. Nel 1428 Konrad Valke, chierico di Münster e successivamente canonico di San Martino, studiava nella città eterna («studens in universit(ate) alme urbis»)<sup>68</sup>. Molto probabilmente Roma fu la sede di studio di Jodocus de Empecz, chierico della diocesi di Coira, che nel 1472 presentò supplica, «ut ratione studii in Romana curia non teneatur promoveri et quod fructus ecclesiae recipere possit»<sup>69</sup>. Al gruppo degli studenti romani apparteneva anche il chierico della diocesi di Cambrai, Johannes de Beka, che nel 1495 ottenne la «licentia studendi in

*Maria dell'Anima. Zur Geschichte einer "deutschen" Stiftung in Rom*, a cura di M. Matheus, Tübingen 2010 (Bibliothek des Deutschen Historischen Instituts, 121), in corso di stampa.

<sup>65</sup> P. Offergeld, *Lebensnormen und Lebensformen der Kanoniker des Aachener Marienstifts. Zur Verfassungs- und Personalgeschichte des Aachener Stiftskapitels in Mittelalter und früher Neuzeit*, in «Zeitschrift des Aachener Geschichtsvereins», 92 (1985), pp. 75-101, qui pp. 92 sgg.

<sup>66</sup> P. Dembiński, *Wykształcenie prałatów i kanoników poznańskiej kapituły katedralnej schyłku wieków średnich*, in T. Jurek, I. Skierska, A. Gąsiorowski, *Fontes et historia. Prace dedykowane Antoniemu Gąsiorowskiemu*, Warszawa 2007, pp. 31-68; si veda anche H. Barycz, *Polacy na studiach w Rzymie w epoce Odrodzenia (1440-1600)*, Kraków 1938. Sulla Polonia si veda anche Esposito, Matheus, *Maestri e studenti presso gli studia a Roma nel Rinascimento* cit.

<sup>67</sup> A. Meyer, *Spätmittelalterliches Benefizialrecht im Spannungsfeld zwischen päpstlicher Kurie und ordentlicher Kollatur. Forschungsansätze und offene Fragen*, in *Proceedings of the Eighth International Congress of Medieval Canon Law*, San Diego, 21-27 August 1988, a cura di S. Chodorow, Città del Vaticano 1991 (Monumenta iuris canonici, Series C: Subsidia 9), pp. 247-262, in particolare pp. 254, 260.

<sup>68</sup> RG IV, col. 422. Si veda anche su di lui *Germania Sacra. Neue Folge* 17,3. *Die Bistümer der Kirchenprovinz Köln. Das Bistum Münster*, Teil 4,3. 4., *Das Domstift St. Paulus zu Münster*, a cura di W. Kohl, Berlin, New York 1989, p. 90, nota 1.

<sup>69</sup> RPG VI, n. 6463.

Romana curia»<sup>70</sup>. Come documentato da una registrazione del 1495, il chierico di Passau Johannes Perger aveva studiato per un anno «in universitate studii huius alme Urbis», ottenendo la licenza in decretis»<sup>71</sup>.

Oltre a costoro, che sicuramente o molto probabilmente possono essere documentati come studenti, vi sono quei curiali e quei frequentatori di Curia che si trattennero lungo tempo a Roma, per i quali si può per così dire sospettare un periodo di studio<sup>72</sup>. Questo vale tra l'altro per coloro che avevano già studiato presso altre università, disponevano dei gradi accademici inferiori e in seguito al viaggio a Roma poterono fregiarsi di gradi accademici o dottorali. Pur potendo conseguire questi onori anche presso altre università italiane, Roma è in tali casi fondamentalmente un luogo da tenere in considerazione per ottenere una promozione<sup>73</sup>. Così colui che divenne poi *custos* presso il capitolo di Neumünster a Würzburg si immatricolò nel 1415 all'università di Vienna e negli anni Venti fu più volte attivo a Roma sul mercato dei benefici. Una fonte conservata *in partibus* documenta che nel 1424 studiava diritto a Roma: «actu in Romana curia in iure canonico studens»<sup>74</sup>.

Ricerche sistematiche dovrebbero essere condotte per ciascun titolare di beneficio che ottenne una dispensa per motivi di studio e per il quale Roma è indirettamente citata come possibile sede di studio. E così troviamo Heinrich Zoerbecke, canonico del duomo di Münster, citato come curiale che ottiene nel 1431 dispensa per risiedere cinque anni presso la Curia romana o per studiare presso un'altra università<sup>75</sup>. All'*abbreviator* pontificio e preposito del duomo di Coira, Burcard Fry, fu concesso nel 1448 di risiedere per i successivi sette anni a Roma o di studiare in qualunque altro luogo<sup>76</sup>. Johannes Belholt detto Bruwerinck, canonico presso l'antico duomo di Münster, presentò supplica nel 1458, ma a lui non vennero concessi i richiesti sette anni ma solamente tre per risiedere «in curia vel studiis generalibus»<sup>77</sup>. Un periodo di soggiorno in Curia unito alla frequenza di un corso di studi a Roma potrebbe ad esempio essere ipotizzato per il suddiacono di Magonza, cantore della chiesa di Santa Maria di Erfurt.

<sup>70</sup> RPG VIII, n. 2434; Schmugge, *Gelehrte und Studenten* cit.

<sup>71</sup> RPG VIII, n. 2413.

<sup>72</sup> «Nel caso di un soggiorno a Roma non è sempre chiaro se l'interesse principale fosse rivolto alla frequenza di un corso di studi universitario o a una carriera beneficiaria perseguita in Curia, spesso a entrambi»: Schmugge, *Über die Pönitentarie* cit., p. 265.

<sup>73</sup> Sul fenomeno dei gradi accademici conferiti *de gratia* si veda Rehberg, *Dottori per "vie traverse"* cit.

<sup>74</sup> RG IV, in particolare coll. 3019 sg. *Germania Sacra*. Neue Folge 26. *Die Bistümer der Kirchenprovinz Mainz. Das Bistum Würzburg*, Teil 4: *Das Stift Neumünster in Würzburg*, a cura di A. Wendehorst, Berlin, New York 1989, p. 408.

<sup>75</sup> RG IV, 1 coll. 1345 sg. Si veda *Germania Sacra*. Neue Folge 33. *Die Bistümer der Kirchenprovinz Köln. Das Bistum Münster*, Teil 6, *Das Stift Alter Dom St. Pauli in Münster*, a cura di K. Scholz, Berlin, New York 1995, p. 389.

<sup>76</sup> RG VI, n. 581. Si veda C. Wirz, *Regesten zur Schweizergeschichte aus den päpstlichen Archiven*, I, Bern 1911, p. 5, n. 7.

<sup>77</sup> RG VII, n. 1282.

Nel 1464 egli inoltrava supplica «de non promovendo ad 5 annos stando in curia vel loco studii»<sup>78</sup>.

Non di rado sono possibili collegamenti tra i dati citati nelle fonti di Curia e altri documenti conservati a Roma. Numerosi riferimenti ad accademici provenienti dalle regioni a nord delle Alpi si trovano ad esempio nelle fonti dell'archivio di Santa Maria dell'Anima<sup>79</sup>. Nell'insieme le testimonianze rilevanti rintracciabili per una ricostruzione prosopografica non possono certo sostituire la perdita dei registri matricolari che furono prodotti dall'università romana al più tardi dalla metà del XV secolo<sup>80</sup>, ma, perlomeno per quanto riguarda gli *Ultramontani*, possiamo aspettarci da esse dati preziosi su studenti e docenti presso le università romane.

### 5. Membri dell'università nel conflitto sociale

Fin dal loro primo apparire nel XII e XIII secolo le università, inserite in modo per così dire simbiotico nella città, sono una tipica manifestazione dell'ambiente urbano. Allo stesso tempo la convivenza ravvicinata di due corporazioni, ciascuna con il proprio *status* giuridico, provocava con sempre maggior frequenza conflitti che spesso sfociavano in manifestazioni di notevole violenza<sup>81</sup>. Già nel XIII secolo l'università di Parigi riceveva entrate dalla dotazione di cappellanie fondate come riparazione per omicidi o ferimenti mortali di membri dell'università<sup>82</sup>. Città e università erano in competizione in particolare per questioni legate alla politica dei prezzi, daziaria e fiscale, come pure in ambito giurisdizionale per il concreto riconoscimento di posizioni giuridiche e per privilegi previsti da norme concesse.

<sup>78</sup> RG IX, n. 2090; Schmutge, *Über die Pönitentarie* cit., p. 260. Dati corrispondenti si trovano anche in *partibus*: il futuro vescovo di Bamberg, Wiegand di Redwitz (1522-1556), che negli anni Novanta aveva studiato a Erfurt e Ingolstadt, il 23 settembre 1502 ottenne un periodo di vacanza di due anni dal capitolo del duomo per studiare a Roma o in un'altra università italiana («zwey jare dye nechsten ad studium nemlich gein Rome oder ad studium generale ytalie absentz geben», Staatsarchiv Bamberg, B 86 n. 260, fol. 139). Ringrazio il dott. Klaus Rupprecht per avermi rilasciato una copia. Su Wiegand di Redwitz si veda *Germania Sacra*, Neue Folge 38,1, *Die Bistümer der Kirchenprovinz Mainz. Das exempte Bistum Bamberg*, Teil 3, *Die Bischofsreihe von 1522 bis 1693*, a cura di D. J. Weiss, Berlin, New York 2000, pp. 54 sgg. Si veda anche Esposito, Matheus, *Maestri e studenti presso gli studia a Roma nel Rinascimento* cit.

<sup>79</sup> Matheus, *Nikolaus von Kues, seine Familiaren und die Anima* cit.

<sup>80</sup> Matheus, *Roma docta* cit.

<sup>81</sup> *Stadt und Universität im Mittelalter und in der früheren Neuzeit*, a cura di E. Maschke, Sigmaringen 1977; *The university and the city. From medieval origins to the present*, a cura di T. Bender, New York, Oxford 1991; *Stadt und Universität*, a cura di H. Duchhardt, Köln, Weimar, Wien 1993 (Städteforschung, Reihe A, Darstellungen 33); R.C. Schwings, *Der Student in der Universität*, in *Geschichte der Universität in Europa*, a cura di W. Rüegg, I, *Mittelalter*, München 1993, pp. 181-223; K. Mühlberger, *Universität und Stadt im 14. und 15. Jahrhundert am Beispiel Wiens. Wesentliche Grundlagen und ausgewählte Szenen einer "konfliktbeladenen Harmonie"*, in *Stadt, Universität, Archiv*, a cura di M. Maaser, Göttingen 2009 (Schriftenreihe des Frankfurter Universitätsarchivs, 2), pp. 25-69; si veda anche per l'età moderna dal punto di vista della storia sociale S. Brüdermann, *Göttinger Studenten und akademische Gerichtsbarkeit im 18. Jahrhundert*, Göttingen 1990 (Göttinger Universitätsschriften A, Schriften 15), in particolare pp. 249 sgg.

<sup>82</sup> Schmidt, *Pariser Magister* cit., pp. 104 sg.

Tra gli studenti di origine transalpina la percentuale di chierici era alta. Sempre più spesso il loro coinvolgimento in controversie violente comportò secondo il diritto canonico l'esclusione dal conferimento degli ordini sacerdotali o dal conseguimento di cariche superiori e le loro carriere ecclesiastiche furono così minacciate. Dato che il proscioglimento da condanne canoniche dipendeva dal papa, si rendeva necessario per costoro adire la Curia romana per ottenere là l'assoluzione. I numerosi racconti contenuti negli atti di Curia indirizzano di conseguenza lo sguardo in modo selettivo e unilaterale, come attraverso un prisma, verso liti che caratterizzavano la vita quotidiana nelle università, restituendone un'immagine solo molto parziale. Anche se l'incidenza dei conflitti non può essere descritta in termini statistici, si può comunque affermare che esse non rappresentavano assolutamente eccezioni nella quotidianità universitaria. Notevole è la ricchezza di informazioni che i registri di Curia e in particolare le *narrationes* spesso molto particolareggiate in RPG offrono sulla vita che si conduceva negli ambienti di studio universitari<sup>83</sup>; abbiamo numerosi dettagli sui luoghi e le circostanze dei conflitti descritti. Bisogna notare comunque, considerando sempre i membri delle università che chiedevano dispensa, che essi si servivano perlopiù di esperti procuratori per redigere le necessarie scritture. Le notizie contenute in RG e RPG non si riferiscono solo a città universitarie delle regioni transalpine, ma anche ad università italiane. La migrazione accademica da nord verso sud trova anche qui una specifica ripercussione.

Solo raramente si può in parte ricostruire la genesi dei conflitti sulla base delle scritture di parte redatte a Roma. Tuttavia emerge la molteplicità delle tipologie e le notizie conservate a Roma possono essere completate – nel caso per esempio dell'università di Rostock – grazie a documenti conservati in loco<sup>84</sup>.

Nell'insieme lo spettro delle controversie di cui abbiamo conoscenza e l'insieme dei motivi di risentimento e di animosità ad esse legati tra universitari e cittadini o milizie civiche, tra studenti e artigiani, come pure all'interno di gruppi studenteschi mostra alcuni caratteri specifici<sup>85</sup>. Spesso il pretesto indicato appare futile e non di rado l'eccessivo consumo di alcool gioca un ruolo fondamentale. Qualche fattispecie connessa con i concetti rango e onore potrebbe essere stata sacrificata alla prospettiva di parte che si evince dai racconti narrati presso la Curia. Tuttavia ancora un elemento emerge in modo sempre più chiaro: molti dei conflitti che qui interessano possono essere interpretati in modo adeguato, solo se inseriti nel contesto di una società

<sup>83</sup> Schmugge, *Über die Pönitentiarie* cit., in particolare pp. 265 sgg.; Esch, *Wahre Geschichten* cit., pp. 52 sgg.

<sup>84</sup> Schmugge, *Über die Pönitentiarie* cit., in particolare pp. 266 sg.; Esch, *Wahre Geschichten* cit., p. 54; M. Pluns, *Die Universität Rostock 1418-1563. Eine Hochschule im Spannungsfeld zwischen Stadt, Landesherren und wendischen Hansestädten*, Köln, Weimar, Wien 2007 (Quellen und Darstellungen zur hansischen Geschichte, Neue Folge 58).

<sup>85</sup> Per la prima età moderna si veda M. Füßel, *Gelehrtenkultur als symbolische Praxis. Rang, Ritual und Konflikt an der Universität der Frühen Neuzeit*, Darmstadt 2006, in particolare pp. 278 sgg.

nella quale questioni di onore e di violazione (reale o presunta) dell'onore delle persone coinvolte giocano un ruolo importante. Inoltre spesso non si tratta solo dell'onore di persone, ma anche della dignità delle istituzioni o meglio delle corporazioni cui esse sono legati<sup>86</sup>. La propensione alla violenza, alta se commisurata agli standard odierni, può almeno in parte essere imputata all'ambiente universitario costituito esclusivamente da giovani uomini. Anche nel caso di azioni compiute sotto l'effetto dell'alcool, processi legati all'affermazione o alla violazione del rango sociale o meglio alla dimostrazione di esso hanno svolto un ruolo importante in un contesto sociale complesso ma allo stesso tempo ben visibile.

<sup>86</sup> *Verletzte Ehre. Ehrkonflikte in Gesellschaften des Mittelalters und der Frühen Neuzeit*, a cura di K. Schreiner e G. Schwerhoff, Köln 1995 (Norm und Struktur, 5).



# ***Des armes, des livres et de beaux habits: l'inventaire après décès d'un podestat crémonais (1307)***

par François Menant

Pour rendre hommage à Giorgio Chittolini, j'ai souhaité évoquer l'une des grandes entreprises scientifiques et éditoriales qu'il a dirigées, la *Storia di Cremona*<sup>1</sup>, en situant ma contribution dans cette ville à laquelle il avait déjà consacré un bel article de jeunesse<sup>2</sup> et dans les perspectives politiques que son œuvre a renouvelées. J'ai donc préparé une étude biographique sur *Primeranus de Diviciolis*, un juge crémonais qui a occupé quelques emplois communaux dans sa ville et a été capitaine du Popolo puis podestat à Lodi. Il n'est mentionné que dans une poignée de sources, mais l'une d'elles est de premier ordre : l'inventaire de ses biens<sup>3</sup>, rédigé le 19 novembre 1307, après son décès, et complété le 12 décembre suivant<sup>4</sup>. Les informations que livre ce texte sur son patrimoine, ses affaires, son réseau de parents et d'alliés, sa bibliothèque, sa garde-robe, permettent de tracer un portrait qui en fait une sorte d'archétype des hommes auxquels, dans certaines communes, la longue domination du Popolo allié à la noblesse guelfe (à Crémone, de 1270 à 1310<sup>5</sup>) a offert un rôle politique et des profits inespérés, et un accès au moins épisodique à l'activité prestigieuse et rémunératrice de magistrat itinérant.

<sup>1</sup> *Storia di Cremona*, dir. G. Chittolini, 7 vol. parus, Cremona 2003-2009.

<sup>2</sup> G. Chittolini, *I beni terrieri del capitolo della cattedrale di Cremona fra il XIII e il XIV secolo*, in « Nuova rivista storica », 49 (1965), pp. 213-274.

<sup>3</sup> *Primeranus* a aussi fait un testament, où sont indiqués ses legs ; mentionné dans l'inventaire, il n'a pas été conservé.

<sup>4</sup> On en conserve l'original, sous forme de deux grands parchemins : Crémone, Archivio di Stato, Archivio Segreto del Comune, Perg. 2545. Je remercie la Dott.ssa Angela Bellardi et le personnel de l'Archivio, qui m'ont facilité la consultation et la reproduction de ce document.

<sup>5</sup> L. Astegiano, *Ricerche sulla storia civile del comune di Cremona*, appendice à *Codex diplomaticus Cremonae, 715-1334*, éd. L. Astegiano, II, Torino 1898, pp. 225-402. F. Menant, *Il lungo Duecento 1183-1311 : il Comune fra maturità istituzionale e lotte di parte*, in *Storia di Cremona* cit., II : *Dall'alto Medioevo all'età comunale*, dir. G. Andenna, Cremona 2004, pp. 282-363.

## 1. La carrière politique de Primeranus de Diviciolis

Nos informations sur *Primeranus* couvrent les vingt dernières années de sa vie ; à part l'inventaire, elles concernent exclusivement ses passages dans l'administration crémonaise et un affermage de revenus communaux<sup>6</sup>. Mentionné pour la première fois en 1287, il doit être mort peu avant la rédaction de l'inventaire, sans doute pas très âgé ; il laisse d'ailleurs un fils mineur, *Nicolinus*<sup>7</sup>.

L'établissement de la biographie de *Primeranus* se heurte à un problème initial, son absence dans le *Liber societatis populi*, la liste, dressée en 1283, de tous les Crémonais qui font partie du Popolo<sup>8</sup> ; il va pourtant en devenir un dirigeant, et neuf de ses parents figurent dans le *Liber*. Il serait incompréhensible qu'il n'y ait pas été inscrit s'il se trouvait à Crémone lors de sa rédaction. On peut penser qu'il était peut-être encore étudiant, loin de Crémone<sup>9</sup> ; il aurait dans ce cas une petite trentaine d'années en 1287 lorsque, à son retour, il remplit sa première charge publique. Mais la raison de son absence en 1283 est peut-être plutôt qu'il exerce alors le métier de juge itinérant, dans l'équipe d'un podestat.

Nous touchons ici une difficulté majeure de cette biographie : alors que la grande enquête sur les magistrats itinérants qu'a dirigée Jean-Claude Maire Vigueur permet de suivre les podestats et les capitaines du Popolo dans leurs déplacements<sup>10</sup>, ceux de leurs collaborateurs, moins bien documentés, nous échappent en grande partie. *Primeranus* a vraisemblablement été juge itinérant avant de devenir podestat et capitaine, mais nous n'en savons rien.

*Primeranus* a parcouru à Crémone un *cursus honorum* modeste mais assez suivi, grâce au développement institutionnel qui accompagne le régime populaire : il figure à six reprises parmi les « sages » qui administrent la gabelle, et trois fois parmi les quatre « abbés » qui sont à leur tête. L'exercice répété de fonctions dans cet organisme, où *Primeranus* côtoie ses parents et ses amis, est un indice de leur degré d'insertion dans la commune de Popolo, au sein de laquelle la *Gabella Magna* se développe démesurément. Chargée

<sup>6</sup> Relevé des fonctions publiques exercées par *Primeranus* : A. Cavalcabò, *I rettori di Cremona fino all'anno 1334*, Cremona 1972, pp. 104 (1287), 108 (1290), 122 (1297), 130 (1299), 144 (1301), 155 (1303), 163 (1305). Les documents correspondants sont résumés dans le *Codex diplomaticus* cit. ; nous les citerons à mesure des besoins. Sur celui de 1290, voir L. Astegiano, *Serie dei rettori di Cremona*, appendice à *Codex diplomaticus* cit., II, p. 200, n. 1. Sur l'affermage, voir note 14.

<sup>7</sup> Son nom complet est *Jacopinus Nicolinus*.

<sup>8</sup> La « *Matricola Popolare* » di *Cremona del 1283*, éd. W. Montorsi, Cremona 1960. Sur l'authenticité, voir Menant, *Il lungo Duecento* cit., pp. 336-337.

<sup>9</sup> Voir ci-dessous. Il se pourrait aussi que *Primeranus* ait encore été mineur en 1283, mais c'est improbable, puisque quatre ans plus tard il exerce déjà une fonction publique ; ou qu'il soit en voyage, ou en captivité...

<sup>10</sup> *I podestà dell'Italia comunale*, I : *Reclutamento e circolazione degli ufficiali forestieri (fine XII sec. - metà XIV sec.)*, dir. J.-C. Maire Vigueur, 2 vol., Roma 2000. L'enquête a permis de dresser la liste, restée inédite, des podestats et capitaines du Popolo qui ont servi dans toutes les communes.



des finances communales, elle coiffe en fait la majeure partie de l'administration<sup>11</sup>. Les sages de la gabelle disposent d'un pouvoir considérable, mais leur influence personnelle est réduite par leur nombre et par la fréquence de leur rotation : ils sont 40, élus pour trois mois, et les quatre abbés changent chaque semaine. Tout citoyen un tant soit peu notable est donc appelé à occuper plusieurs fois ces fonctions.

*Primeranus* est également ancien ou consul du Popolo en 1290, et il fait partie en 1299 de l'ambassade envoyée à Pavie pour conclure une alliance<sup>12</sup>. Sa position lui permet aussi de faire des affaires, tout en rendant service à la commune : en 1302, la gabelle afferme à un groupe d'associés dont il fait partie la taxe sur la vente de vin au détail hors de la ville, pour 2300 l., ainsi qu'un four et la taxe sur la vente du pain, pour 310 l.<sup>13</sup>. Le fermage, versé sur-le-champ, est destiné à payer la levée d'une armée<sup>14</sup> : les imprévus budgétaires des communes offrent de beaux profits aux hommes pourvus de capitaux et proches du pouvoir, en particulier des organes financiers<sup>15</sup>.

*Primeranus* est à deux reprises choisi pour gouverner Lodi, pour la durée habituelle d'un semestre. En décembre 1296, il y est capitaine du Popolo, et en mars 1304 podestat<sup>16</sup>. Entre ses deux puissantes voisines, Milan et Crémone, traditionnellement ennemies, Lodi passe d'une alliance à l'autre. À cette époque, l'hostilité ancestrale se complique du jeu des partis et de l'affirmation de personnalités qui cherchent à établir un pouvoir de type seigneurial. Reconquise en novembre 1292 par les guelfes d'Antonio Fissiraga, Lodi subit ensuite une lourde défaite face à Milan, alors au pouvoir de Matteo Visconti et des gibelins, et se trouve en situation difficile ; en décembre 1295 la commune doit faire un gros emprunt au marquis Cavalcabò, très influent à Crémone. Le choix de *Primeranus* se place dans ce contexte : ce sont presque exclusivement des Crémonais, issus du parti au pouvoir, qui sont pris ces années-là comme podestats et capitaines du Popolo<sup>17</sup>.

Lorsque *Primeranus* y retourne en 1304, la ville est toujours au pouvoir de Fissiraga, et l'influence de Crémone se traduit encore par des appels répétés à des magistrats qui en proviennent. Milan est redevenue guelfe en juin 1302, mais les gibelins lodigiens résistent encore, et le podestat a dans ces circonstances un rôle militaire important.

<sup>11</sup> Astegiano, *Ricerche* cit., pp. 367-376 ; et les documents : *Provvisioni della Gabella Magna, 1295-1310*, pp. 126-167.

<sup>12</sup> *Codex diplomaticus* cit., I, n. 1157, p. 395.

<sup>13</sup> Les sommes d'argent sont exprimées en livres, sous et deniers impériaux, que nous abrégons l., s., d.

<sup>14</sup> *Codex diplomaticus* cit., II, n. 122, p. 146.

<sup>15</sup> L'inventaire recense également 7 versements, pour près de 600 l. en tout, effectués par *Primeranus* à la gabelle pour le compte de diverses personnes et de deux communes rurales, qui lui doivent ces sommes.

<sup>16</sup> Astegiano, *Serie dei rettori* cit., pp. 221, 222.

<sup>17</sup> F. Menant, *Fissiraga Antonio*, in *Dizionario biografico degli italiani*, 48, Roma 1997, pp. 251-255.

Lors de son ambassade à Pavie, *Primeranus* est qualifié de *iudex*. Une origine sociale comme la sienne, c'est-à-dire une noblesse à la fois féodale et citadine, ancienne mais modeste, n'est pas rare, à côté de rejetons de grandes familles, dans le groupe professionnel très particulier que forment les juges<sup>18</sup>. On a conservé une matricule de ceux de Crémone, datable du milieu du XIV<sup>e</sup> siècle<sup>19</sup> : parmi les 73 qui sont énumérés, seuls quelques-uns sont issus de la haute aristocratie des grands *capitanei*<sup>20</sup>. La plupart des noms évoquent des familles de la petite féodalité urbaine qui partagent un long passé de service dans la commune, celles-là même parmi lesquelles, en son temps, évoluait *Primeranus*<sup>21</sup> : la composition de cette liste confirme *post mortem* combien le profil de celui-ci devait être exemplaire de son milieu<sup>22</sup>.

## 2. La famille Divicioli

On peut situer dans le contexte politique crémonais, aux générations précédentes, quelques autres *Divicioli* ou *de Diviciolis* qui sont sans aucun doute des parents de *Primeranus*. La situation onomastique est en effet suffisamment bien établie alors pour que l'on puisse suivre un même individu d'un document à l'autre et établir avec une certaine vraisemblance que des personnes homonymes lui sont apparentées<sup>23</sup>.

« Primeranus » est un de ces noms rarissimes qu'affectionnent les Italiens du XIII<sup>e</sup> siècle<sup>24</sup> : parmi les 7897 Crémonais qu'énumère le *Liber societatis populi*, un seul le porte<sup>25</sup>. Presque exclusif à un individu, ce genre

<sup>18</sup> J.-C. Maire Vigueur, *Gli 'iudices' nelle città comunali: identità culturali ed esperienze politiche*, in *Federico II e le città italiane*, dir. P. Toubert et A. Paravicini Bagliani, Palermo 1994, pp. 161-176 ; J.-C. Maire Vigueur, *Justice et politique dans l'Italie communale de la seconde moitié du XIII<sup>e</sup> siècle : l'exemple de Pérouse*, in « Comptes-rendus de l'académie des inscriptions et belles-lettres », (1986), pp. 312-330.

<sup>19</sup> *Ista est matricula iudicum Cremonae*, in *Statuta et ordinamenta comunis Cremonae facta et compilata currente ano MCCCIX*, éd. U. Gualazzini, Milano 1952, pp. 241-243.

<sup>20</sup> Quatre Sommi, un Dovara, un *Riparii*, un Archidiaconi.

<sup>21</sup> Picenardi, Manaria, Bonbeccarii, Oldoini, Stradeverti, de Burgo, Cortesi, Ansoldi, Fraganeschi, Ansoldi, Stanga. La liste comprend aussi trois de Casalmorano (voir ci-dessous).

<sup>22</sup> Sur l'importance des juristes dans les gouvernements de Popolo, voir S. Menzinger, *Giuristi e politica nei comuni di Popolo. Siena, Perugia e Bologna, tre governi a confronto*, Roma 2006, pp. 5-13.

<sup>23</sup> F. Menant, *Ancêtres et patrimoine. Les systèmes de désignation dans l'aristocratie lombarde des XI<sup>e</sup>-XII<sup>e</sup> siècles*, in *Nomen et gens. Zur historischen Aussagekraft frühmittelalterlichen Personennamen*, Berlin 1997, pp. 176-189 ; F. Menant, *Comment s'appelaient les habitants de Crémone vers 1300? Contribution à l'histoire du nom de famille en Italie*, in *Genèse médiévale de l'anthroponymie moderne. L'espace italien*, 3 (Actes des séminaires de Rome, 24 février et 7 avril 1997), « Mélanges de l'École française de Rome, Moyen Âge », 110 (1998), 1, pp. 183-200.

<sup>24</sup> Ou *Promeranus*, *Prumeranus*, *Primezinus*.

<sup>25</sup> *Prumeranus de Ottobonis* (La « *Matricola Popolare* » cit., p. 88, col. B). On connaît aussi *Primeranus de Summo*, autre Crémonais, et *Primeranus de Cremona*, cavalier au service de Sienne en 1263 (*Regestum Volaterranum. Regesten der Urkunden von Volterra, 778-1303*, éd. F. Schneider, Roma 1907, n. 748, p. 330). Voir aussi note 50. Un rapide sondage montre que le nom est assez répandu en Toscane dans la seconde moitié du XIII<sup>e</sup> s. Il est donc peu probable que le juge *Primeranus* qui intervient au conseil communal de San Gimignano le 8 mai 1299,

de nom personnel est souvent en forme de sobriquet ; celui-ci évoque peut-être l'aïnesse, ou une autre forme de primauté. Quant au nom de famille, *de Diviciolis*<sup>26</sup>, il est construit comme des centaines d'autres des milieux aisés, en mettant à l'ablatif pluriel le nom d'un ancêtre, souvent celui qui a donné une impulsion décisive à l'ascension de la famille : il s'agit ici d'un Albert *Diviciolus* qui vivait au tout début du XII<sup>e</sup> siècle, et dont le sobriquet peut suggérer qu'il était « un peu riche »<sup>27</sup>.

Une dizaine d'hommes appelés *de Diviciolis* figurent dans les sources crémonaises depuis 1121<sup>28</sup>. Ils participent aux réunions des vassaux de l'évêque<sup>29</sup>, ou sont ses chargés de mission dans des affaires féodales<sup>30</sup>. Ils se rangent clairement parmi les *valvassores* citadins, dans la société d'ordres qui est celle des villes italiennes de ce temps<sup>31</sup>. Ils ne portent pas ce titre, que les Crémonais adoptent rarement, mais ce que nous savons d'eux les place dans ce deuxième ordre. Ils tiennent des fiefs directement de l'évêché, ce qui les classe à strictement parler parmi les vassaux de premier rang, les *capitanei*, et comme eux ils possèdent un château avec l'*honor castri* (les droits seigneuriaux) ou quelques parts de celui-ci ; mais ce genre d'interférences entre les degrés de la hiérarchie n'a rien d'exceptionnel, à Crémone en particulier. Les *Divicioli* ont d'ailleurs également pour seigneurs les comtes de Sospino, eux-mêmes vassaux de l'évêché. Leur position est bien celle de vassaux de second rang, qui font partie intégrante de la société urbaine. Leurs fiefs, tels qu'on les entrevoit dans des documents allusifs, semblent d'ailleurs peu importants<sup>32</sup>.

dans une affaire concernant Dante – d'où la célébrité de l'épisode –, soit le nôtre, en mission là-bas. Il se trouve d'ailleurs en ambassade à Pavie le 3 mai (n. 12).

<sup>26</sup> Parfois *de Diviziolis*.

<sup>27</sup> *Codex diplomaticus* cit., I, 47, p. 102 : *filii Alberti Divicioli*. *Diviciolus* peut aussi être le nom du père d'Albert ou d'un ancêtre antérieur.

<sup>28</sup> On en trouve au moins jusqu'au XVI<sup>e</sup> siècle, toujours à un niveau honorable mais sans éclat de la société urbaine.

<sup>29</sup> *Codex diplomaticus* cit., n. 110, p. 112 (1138), n. 198, p. 127 (1162 ; voir *Le carte cremonesi dei secoli VIII-XII*, éd. E. Falconi, II, Cremona 1980, n. 395, p. 327), n. 266, p. 139 (1171), n. 334, p. 149 (1177), n. 121, p. 218 (1211) ; *Atti di Cremona dei secoli XIII-XVI nell'archivio dell'Istituto di storia (sezione di Leningrado) dell'Accademia delle scienze dell'URSS (Akty Kremeny XIII-XVI...)*, éd. V. Rutenburg et E. Skrzinskaia, Moscou-Leningrad 1961 (= *Acta Cremonae*, II : voir note 32), n. 6, p. 67 (1231).

<sup>30</sup> *Le carte cremonesi* cit., II, n. 368, p. 280 (1156), à la p. 281 (= *Codex diplomaticus* cit., I, n. 169, p. 121) : *Guarizo Diviciolus* assure avoir été chargé, à une date qu'il situe entre 1122 et 1131, de la délicate mission d'aller sommer Albert de Melegnano, grand seigneur milanais, de reconnaître qu'il est vassal de l'évêque de Crémone.

<sup>31</sup> On revient toujours au livre qui a clarifié cette structure sociale : H. Keller, *Adelsherrschaft und städtische Gesellschaft in Oberitalien (9.-12. Jahrhundert)*, Tübingen 1979 (éd. ital. Torino 1995). Pour Crémone, voir aussi F. Menant, *Campagnes lombardes du Moyen Âge. L'économie et la société rurale dans la région de Bergame, de Crémone et de Brescia du X<sup>e</sup> au XIII<sup>e</sup> siècle*, Roma 1993, pp. 601-632 ; F. Menant, *Cremona in età precomunale : il secolo XI*, in *Storia di Cremona* cit., II, pp. 142-185.

<sup>32</sup> *Acta Cremonae*, I, éd. S.A. Anninskii, Moscou 1937, n. 27 p. 111 (1148) : *Guarizo Divicioli* vend un fief épiscopal à Crotta d'Adda ; n. 152, p. 301 (1226) : *Melius de Diviciolis* tient un fief épiscopal à Alfiano ; *Codex diplomaticus* cit., I, n. 101, p. 214 (1209) : *Oldefredus Divicioli* cède à l'é-

Leur caractère aristocratique se traduit également dans leur résidence de ville : *Primeranus* possède une maison et la moitié d'une autre *in curia illorum de Diviciolis*. La *curia*, espace fermé et fortifié où vit le lignage, et le nom collectif *illi de Diviciolis*, qui souligne sa cohésion, sont des marqueurs aristocratiques. Cette « cour » se trouve dans la *vicinia* S. Stefano, proche de la cathédrale et du palais de l'évêque<sup>33</sup> : c'est un quartier de vassaux épiscopaux, qui a été englobé dans l'enceinte en 1169.

Quelques *Divicioli* figurent dans les institutions communales au premier tiers du XIII<sup>e</sup> siècle : ils siègent au conseil général de la commune, la *credentia*, au conseil restreint du podestat, ou exercent l'importante charge financière de *massarius*. Un seul, Otto (Oddo), atteint la magistrature suprême, le consulat, à l'occasion d'une des ultimes tentatives de revivifier l'institution, au premier semestre 1229<sup>34</sup>. Le gouvernement des podestats impériaux, à partir de 1233, et la longue hégémonie gibeline vont ensuite écarter les *Divicioli* de la vie publique, et les chasser de la ville.

### 3. Les *Divicioli* au temps du régime de *Popolo*

Le 21 décembre 1246<sup>35</sup>, Innocent IV écrit une lettre d'encouragement à 14 « nobles familles » qui ont pris parti contre Frédéric II, alors maître de la ville, et en ont été chassées. Parmi ces exilés qui forment le noyau initial du parti guelfe crémonais et qui prendront le nom de Cappelletti, « chevelus », se trouvent les *Divicioli* au grand complet<sup>36</sup>.

Lorsqu'en 1270 le *Popolo* s'empare du pouvoir avec l'appui des Cappelletti, après une transition de trois ans, les exilés de 1246 enfin de retour, ou leurs fils, partagent avec les dirigeants populaires les charges communales et les profits qui leur sont liés. Les *Divicioli* sont inscrits à la *societas populi*, condition *sine qua non* pour participer à la vie publique : le *Liber societatis populi* contient 9 hommes de ce nom, qui doivent représenter l'essentiel des mâles adultes de la famille ; *Primeranus* et *Meliolus* font partie des « consuls et anciens du *Popolo* » en 1290 et 1304. Les *Divicioli* se cantonnent surtout, comme *Primeranus* lui-même, dans des domaines qui exi-

vêché des terres sises à Sospiro, qu'il tenait en fief des comtes de Sospiro, *domini sui*, et en reçoit d'autres à *Casalicio* (disparu, aux environs de Mozzanica).

<sup>33</sup> Tous les *Divicioli* que mentionne le *Liber societatis populi* sont recensés dans la *vicinia maior burghi sancti Stephani*, qui correspond à l'actuelle via Aporti (A. Cavalcabò, *Le vicende dei nomi delle contrade di Cremona*, Cremona 1933, pp. 11, 33).

<sup>34</sup> *Codex diplomaticus* cit., II, n. 28 p. 67 (*credentia*, 1204). Cavalcabò, *I rettori* cit., p. 42 (conseil du podestat, 1208). Astegiano, *Serie dei rettori* cit., p. 183 (*massarius*, 1216). Sur le consulat d'Otto : Astegiano, *Serie dei rettori* cit., p. 184 (1229) ; il a aussi été directeur communal des fortifications, *superstans castrorum* : *Codex diplomaticus* cit., II, nn. 2-3, p. 88 (1226), nn. 50 et 55, p. 97 (1230).

<sup>35</sup> Ou le 12 janvier 1247. Sur les éditions et l'authenticité de la lettre (jamais mise en doute), voir Menant, *Il lungo Duecento* cit., p. 321, n. 115.

<sup>36</sup> Alors que la lettre pontificale précise pour certaines familles que seule une partie de leurs membres est concernée.

gent compétence financière et capitaux : en 1283, Nicolas *de Diviciolis* afferme une taxe sur le sel et le vin avec un associé<sup>37</sup>, et *Riboldus* et *Mainardinus* sont plusieurs fois sages et abbés de la gabelle.

Mais à part *Primeranus*, aucun *Divicioli* n'accède aux magistratures itinérantes. Des familles de profil social équivalent ont pourtant fourni très tôt des podestats, et en ont même fait un véritable métier<sup>38</sup>, et parmi les exilés guelfes, écartés de ces fonctions jusqu'à 1267 par l'hégémonie gibeline, plusieurs ont mené de belles carrières après leur retour. La qualification juridique de *Primeranus* et son conformisme politique ont joué pour lui faire obtenir ses deux charges, d'ailleurs sans éclat ; mais ses mérites n'ont suffi ni à faire entrer d'autres membres de sa famille dans cette voie, ni à le lancer lui-même dans une carrière itinérante comme certains Crémonais contemporains, d'origine pourtant plus obscure que lui.

#### 4. Le patrimoine de *Primeranus*

Les premiers *Divicioli* connus, les fils d'Albert, possèdent des vignes suburbaines et un entrepôt (*caneva*)<sup>39</sup>. On identifie par la suite des fiefs, dispersés aux quatre coins du diocèse, que d'autres *Divicioli* tiennent de l'évêché et des comtes de Sospino<sup>40</sup>. Longtemps après, l'inventaire des biens de *Primeranus* montre que plusieurs de ses parents possèdent une partie du village de Casalmorano, à une vingtaine de kilomètres au Nord-Ouest de Crémone, et de l'*honor castri*, qu'ils partagent avec deux autres groupes familiaux, les Oldoini et les *capitanei* de Casalmorano. Les *Divicioli* ont dû par ailleurs, comme d'autres familles de ce milieu, profiter de l'essor industriel et commercial de leur ville, mais ils n'apparaissent presque pas dans les circuits financiers qui brassent de grosses sommes à Crémone à la fin du XIII<sup>e</sup> siècle. Leur rôle récurrent dans les magistratures de la gabelle et dans les profits procurés par celle-ci suggère cependant qu'ils ne sont pas entièrement étrangers au monde des affaires.

Le patrimoine personnel de *Primeranus* comprend une centaine d'hectares à Casalmorano, en majorité des champs et des prés ; on ignore comment il les exploite. Il possède un sixième du *castrum* et de l'*honor castri* : il en avait, sans doute par héritage, le tiers d'un douzième, et il a racheté une autre part égale en commun avec son frère *Tomaxius*, puis, seul cette fois, un huitième. L'éparpillement et la circulation des droits seigneuriaux sont caractéristiques des familles aristocratiques lombardes, soumises au partage égalitaire entre héritiers. Les deux frères ont aussi en commun à Casalmorano une

<sup>37</sup> *Codex diplomaticus* cit., I, nn. 987, p. 367, et 1001, p. 395. Comme en 1302 (n. 14), le fermage est destiné à solder des troupes.

<sup>38</sup> F. Menant, *Podestats et capitaines du peuple d'origine crémonaise*, in *I podestà dell'Italia comunale* cit., pp. 75-105.

<sup>39</sup> Voir note 27.

<sup>40</sup> Voir note 32.

tour à deux étages, une demeure de maître (décrite selon la formule classique *caminata copata et murata* : « salle de réception avec cheminée, en pierre et couverte de tuiles »), trois maisons de moindre qualité (*casamentum*, *domus paliata*) et quelques terres. Trois autres maisons, dont une *caminata*, appartiennent entièrement à *Primeranus*.

Il possède un autre ensemble foncier à l'Est de Crémone, à Tidolo, près de Sospiro : la moitié d'une tour, une maison, 35 hectares de terres, et de nombreux contrats de *soccida*. D'autres biens, dispersés, proviennent d'acquisitions : huit hectares à Cella Dati, non loin de Tidolo, reliquat de la dot de sa première femme ; une terre avec une maison à *burgus novus de Gaidoldis*, site de conquête agraire dans l'Oltrepò ; quelques prés et champs à Genivolta, issus d'un achat. Enfin des vignes à Bonemerse, dans les « clos » suburbains de Crémone, la plupart louées pour un loyer en monnaie et en moût : sa cave contient, deux mois après la vendange, 14 barriques pleines et presque autant d'autres vides.

Au total le patrimoine foncier de *Primeranus* est celui d'un propriétaire aisé. Mais l'abondance des biens meubles, des crédits et des liquidités disponibles pour des acquisitions et opérations financières suggère qu'il a d'autres ressources. Il possède 650 l. de créances, alors que ses dettes s'élèvent à 240 l. seulement<sup>41</sup>. Il ne pratique cependant pas le prêt à intérêt à grande échelle, comme le font beaucoup de ses contemporains<sup>42</sup>, mais il se livre à de très grosses opérations financières : l'affermage de revenus communaux auquel il participe en 1302 se monte à pas moins de 2610 l. ; il est capable de dépenser 570 l. pour arrondir son domaine de Casalmorano, et il fait plusieurs autres achats de terres et de rentes foncières. Ses sources de revenus, telles qu'on les entrevoit, sont classiques dans son milieu : les métiers du droit et les magistratures itinérantes, extrêmement bien rétribués, les affermes de revenus communaux, et la spéculation sur les produits agricoles. La quantité de vin et surtout de blé trouvée dans ses réserves laisse en effet penser qu'il commercialise une bonne partie de sa production, ce qui peut rapporter beaucoup en cette période de disettes<sup>43</sup> : trois mois après la récolte, il dispose de 150 hectolitres de céréales<sup>44</sup>. La consommation de la maisonnée n'en prélèvera qu'une faible partie, et ce stock une fois mis sur le marché rapportera au minimum une cinquantaine de livres, et bien davantage s'il attend que les prix montent.

<sup>41</sup> 125 l. et 115 ducats : le ducat d'or vaut environ une livre.

<sup>42</sup> Voir cependant note 15.

<sup>43</sup> M. Bourin, J. Drendel et F. Menant (dir.), *Les disettes dans la conjoncture de 1300 en Méditerranée occidentale*, sous presse.

<sup>44</sup> 77 hectolitres de froment (avec un peu de seigle, qui n'est pas distingué dans tous les décomptes), 67 de mil, panic et sorgho (*milica*), 8 de fèves, pois (*zizeri*) et haricots (*faxoli*). La proportion des différentes céréales correspond à celle qui est habituelle dans les emblavures et les redevances de la région, qui comprennent toutefois un peu moins de froment. Sur le marché crémonais des blés, voir Menant, *Campagnes lombardes* cit., pp. 236-249.

## 5. Le réseau social

L'inventaire après décès révèle aussi le réseau familial et social de *Primeranus*. Son frère *Tomaxius* (ou *Tomaxinus*) d'abord, avec lequel il possède plusieurs biens en indivision. Trois autres *Divicioli* ensuite : *Iulianus* et Michel sont témoins de l'acte avec *Tomaxius*, et *Riboldus* est un des quatre tuteurs de *Nicolinus*. On ignore leur lien de parenté exact avec *Primeranus*, mais ils habitent les maisons voisines de la sienne à Casalmorano et dans la *curia* familiale de Crémone, et plusieurs de ses terres jouxtent les leurs.

Les autres hommes dont l'inventaire révèle la proximité avec le défunt ont comme lui un passé familial qui s'inscrit dans la vassalité épiscopale et dans des fonctions communales ; certains de leurs ancêtres se sont déjà ralliés au Popolo lorsque celui-ci s'est affirmé au début du XIII<sup>e</sup> siècle<sup>45</sup>. Ils ont eux-mêmes adhéré au guelfisme et au Popolo, et plusieurs ont été podestats. Ainsi les trois *de Zosano* qui sont tuteurs de *Nicolinus* : *Girardus* et *Zoaninus* ont été podestats<sup>46</sup> ; le premier accompagnait *Primeranus* dans l'ambassade à Pavie, le second et *Zenarolus*, le troisième, lui ont prêté 60 l. chacun. Parmi les créanciers du défunt, il y a Frédéric Ponzzone, un des chefs guelfes les plus influents, plusieurs fois podestat ; et parmi ses débiteurs, Pino Vernazzi, le plus connu des podestats crémonais. *Primeranus* partage la seigneurie de Casalmorano avec une autre famille du même genre, les Oldoini<sup>47</sup>. Les deux notaires qui rédigent l'inventaire, *Rafael* et *Iacominus Aghinonus de Gaydoldis*, sont aussi de ce milieu<sup>48</sup>, et *Primeranus* possède des terres dans le *burgus novus de Gaidoldis*, village fondé par cette famille.

Une allusion de l'inventaire révèle que *Primeranus* était veuf de *Ricasina*, de la famille *de Cella*, qui était la mère de *Nicolinus*<sup>49</sup>. Cette alliance est parfaitement cohérente du point de vue social : les *de Cella* sont eux aussi des valvasseurs urbains, qui vivent depuis le XI<sup>e</sup> siècle dans la clientèle de l'évêché. Leur village, l'actuel Cella Dati, est voisin des terres des *Divicioli* à Sospiro et Tidolo. Mais les deux familles ont embrassé des causes opposées : les *de Cella* font partie des gibelins irréductibles, restés quarante ans en exil sous le régime populaire-guelfe ; en 1313, ils ne sont pas moins de 14 parmi les défenseurs du dernier bastion gibelin, Robecco<sup>50</sup>. Quelques-uns, ralliés au régime, figurent toutefois dans le *Liber societatis populi* ; on peut penser que c'est dans cette branche que *Primeranus* a pris son épouse, à moins que son mariage n'ait fait partie d'une tentative de pacification.

<sup>45</sup> *Ibidem*, p. 298.

<sup>46</sup> *Ibidem*, p. 350.

<sup>47</sup> *Ibidem*, pp. 256-257, 350. *Guilielmus Oldoini* participait à l'ambassade de 1299.

<sup>48</sup> Mais certains *Gaidoldi*, gibelins, sont en exil à cette époque.

<sup>49</sup> Sa seconde épouse, Orsolina, est citée parmi les créanciers du défunt, pour trois sommes dont l'une doit, selon l'usage, correspondre à sa dot : 24 l. 12 s., 16 l., et 30 s. C'est sans aucun doute à elle qu'est destinée la moitié de l'héritage dont *Nicolinus* n'entre pas en possession.

<sup>50</sup> Menant, *Il lungo Duecento* cit., p. 354. Un des chefs des assiégés s'appelle *Primeranus de Cella*, ce qui, eu égard à la rareté de ce prénom, suggère un rappel conscient de sa parenté avec notre *Primeranus* (*Codex diplomaticus* cit., II, n. 168, p. 25).

## 6. L'équipement de guerre

L'inventaire de *Primeranus* se distingue du modèle habituel de ce genre de documents par trois passages qui illustrent ses compétences professionnelles : juge, il a rassemblé une bibliothèque juridique de base ; podestat, il possède un équipement militaire et une garde-robe d'apparat.

L'armement, d'abord, suffit à une petite escorte : quatre cuirasses, deux paires de gants de fer, deux gorgerins, une paire de jambières et une de chaussures de fer, trois casques et un bouclier, ainsi qu'une tente neuve. Les armes offensives sont passées sous silence, ce qui est généralement le cas dans les inventaires, de même que les chevaux<sup>51</sup>.

## 7. La bibliothèque

Le titre de juge que porte *Primeranus* permet de mieux comprendre le passage le plus inhabituel de l'inventaire, une liste de livres de droit :

1) *Unum diestum vetus cum aparatu Ac[cursii]*. Le « vieux Digeste » est la première partie du Digeste, éditée ici avec la glose (*apparatus [glossarum]*) qui fait autorité, celle d'Accurse, le plus influent des glossateurs, qui a dominé l'enseignement bolonais au milieu du XIII<sup>e</sup> siècle.

2) *Unum codex cum aparatu Ac[cursii]*. C'est le Code de Justinien. On en trouve plus loin un autre exemplaire, partiel.

3) *Una instituta, tres libri codicis et autenticum cum aparatu Ac[cursii] in uno volumine*. *Volumen* (ou *volumen parvum*) est le nom usuel du cinquième et dernier volume du *corpus iuris civilis*, qui comprend, comme c'est le cas dans l'exemplaire de *Primeranus*, les Institutes (un court manuel composé d'extraits du Code et du Digeste), les trois derniers livres du Code (appelés couramment, comme ici « les trois livres») et les Novelles, généralement proposées sous la forme de l'*Authentica* ou *Authenticum*, c'est-à-dire des extraits.

4) *Decretum et decretalles cum aparatu B[ernardi] in duobus voluminibus*. On arrive au droit canon, avec les deux parties du *Corpus iuris canonici* : le Décret (de Gratien) et les Décrétales (de Grégoire IX). Bernard de Botone (ou de Parme), professeur à Bologne de 1232 à sa mort en 1266, a laissé une glose des décrétales de Grégoire IX qui fait autorité.

5) *Una soma Ac[cursii]*. Il s'agit de l'une des deux sommes – synthèses d'un domaine du droit – qu'a laissées Accurse : *summa autentici*, qui est une compilation des Novelles de Justinien, ou plus probablement *summa feudorum*, qui devait être dès lors intégrée au *corpus iuris*<sup>52</sup>. Rappelons que la cour féodale de l'évêché de Crémone est la plus active de Lombardie après celle de Milan, et qu'on la voit fonctionner encore à la fin du XIII<sup>e</sup> siècle. Le juge *Primeranus*, issu d'une longue lignée de vassaux, y prête sans doute ses

<sup>51</sup> Seules sont mentionnées les bêtes données en *soccida* : bovins, ovins et ânes.

<sup>52</sup> E. Cortese, *Il diritto nella storia medievale*, II, Roma 1995, pp. 164-167, 179-185.



conseils. Comme pour les gloses au *corpus iuris civilis*, il a choisi pour ce texte la version d'Accurse, produite lorsque le droit féodal a commencé d'être enseigné à Bologne, et devenue aussitôt classique. La liste des dettes, en fin d'inventaire, précise que ce livre a été cédé à *Iulianus de Rosanis*, un autre membre du réseau guelfe qui gravite autour de la gabelle, en gage de 13 l. que lui a empruntées *Primeranus*.

6) *Libelli Rofredi*. Rofredus de Bénévent, un expert majeur dans l'un et l'autre droit, a enseigné à Bologne et servi Frédéric II, puis trois papes successifs. Ses deux oeuvres principales, *libelli iuris civilis* et *libelli iuris canonici*, des traités de procédure, sont souvent rassemblées en un volume : ce doit être de celui-ci qu'il s'agit.

7) *Librum trium parcium sine aparatu*. Les trois premiers livres, ou parties, du Digeste : *Digestum vetus* (dont *Primeranus* possède un autre exemplaire, glosé), *Infortiatum*, et *Digestum novum*.

8) *Unum librum racionum in jure civili*. Un manuel de procédure pour les causes civiles, qui n'est pas défini plus précisément.

9) *Unum mesale*. Un missel.

La bibliothèque constituée par *Primeranus* lui permet donc d'avoir sous la main l'essentiel du *corpus iuris civilis* et du *corpus iuris canonici*, ainsi que deux guides de procédure. Les éditions sont celles des grands maîtres qui ont enseigné à Bologne autour de 1250, et dont les gloses sont l'outil indispensable pour un usage effectif du droit : Accurse bien sûr, dont l'influence se reflète dans la prédilection de *Primeranus* pour son oeuvre, mais aussi Rofredus de Bénévent et Bernard de Parme. *Primeranus* a rassemblé cette belle collection à grands frais, probablement pendant ses études. La proximité géographique de Bologne, le rayonnement de ses maîtres, et la qualité même des livres, rendent extrêmement vraisemblable que ce soit dans cette capitale du droit que *Primeranus* a accompli sa formation et constitué sa bibliothèque, et non à Padoue, plus éloignée de chez lui, ou dans l'une des écoles de droit moins renommées dont est parsemée l'Italie du Nord<sup>53</sup>.

## 8. La garde-robe

L'inventaire des biens de *Primeranus* se distingue aussi de ceux de ses contemporains par la garde-robe qui y est décrite : les inventaires crémonais<sup>54</sup> mentionnent habituellement la literie (draps, couvertures...), mais pas toujours les vêtements, en tout cas pas en telle quantité<sup>55</sup>. Celui de

<sup>53</sup> Un *studium* où l'on étudie le droit est cependant attesté à Crémone par un unique document de 1292 : Astegiano, *Ricerche* cit., p. 345, n. 1.

<sup>54</sup> Il n'y a par exemple pas de vêtements (ni de livres) dans l'inventaire après décès d'*Egidiolus de Persico*, qui est vraisemblablement le podestat homonyme, issu d'une famille de valvasseurs citadins (Crémone, Archivio di Stato, Arch. Segr. del Comune, Perg. 2520, 12 octobre 1307), ni dans celui de *Iacominus de Marianis*, d'une autre famille podestarile (même fonds, Perg. 2481, 28 novembre 1310).

<sup>55</sup> À la différence de ceux d'autres villes, généralement plus tardifs, qui constituent de riches

*Primeranus* en énumère une trentaine : quatre ensembles de trois vêtements superposés (manteau, garnache<sup>56</sup> et gonelle<sup>57</sup>), d'étoffe et de couleur coordonnées<sup>58</sup> — ce qu'on appelle des « robes » —, quatre autres ensembles composés de deux seulement de ces vêtements<sup>59</sup>, six manteaux, capes ou mantelets<sup>60</sup>, et cinq autres pièces<sup>61</sup>; les chausses, souliers, chapeaux et autres accessoires ne sont pas mentionnés. Une des « robes » et un manteau avec sa gonelle assortie sont d'écarlate, l'étoffe de loin la plus coûteuse<sup>62</sup>, une autre « robe » de saie vermillon<sup>63</sup>; les autres vêtements sont en drap, en cendal<sup>64</sup>, en camelin<sup>65</sup>, et sont teints de bleu clair, de vert<sup>66</sup>, de jaune<sup>67</sup>, de rouge<sup>68</sup>;

sources pour l'histoire sociale du vêtement. Les travaux de M.G. Muzzarelli offrent une introduction idéale pour situer la garde-robe de *Primeranus* dans cette histoire, telle que la vivent les Italiens de son temps : voir surtout M.G. Muzzarelli, *Guardaroba medievale. Vesti e società dal XIII al XVI secolo*, Bologna 1999 ; M.G. Muzzarelli, *Gli inganni delle apparenze. Disciplina di vesti e ornamento alla fine del medioevo*, Torino 1996.

<sup>56</sup> *Guarnazia, garnazia* : « vêtement de dessus, qui était à l'origine large, long et ouvert sur les flancs, avec ou sans manches, et s'enfilait sur la gonelle et sous le manteau. Il pouvait être richement orné et doublé de peau ou de fourrure » (Muzzarelli, *Guardaroba* cit., p. 357 ; voir R. Delort, *Le commerce des fourrures en Occident à la fin du Moyen Âge*, I, Roma 1978, pp. 363-364).

<sup>57</sup> *Gonella* : « veste près du corps, à manches, généralement de laine, portée sous la garnache ; c'est le vêtement de base » (Muzzarelli, *Guardaroba* cit., p. 357) ; elle peut être doublée de fourrure (J.F. Niermeyer, *Mediae latinitis lexicon minus*, Leiden 1976, art. *gunella* ; Delort, *Le commerce des fourrures* cit., I, pp. 365-367, 399).

<sup>58</sup> *Unum mantellum et una guarnazia fodrata de vayro et una gonella omnes de scarleto. Unum mantellum sine fodra et una guarnazia fodrata de vayro et una gonella omnes de blaveto. Unum mantellum fodratum de vayro et una guarnazia sine fodra et una gonella omnes de viridi. Unum mantellum et una guarnazia fodrata de zendali et una gonella omnes de saya vermilia.*

<sup>59</sup> *Una guarnazia panni dorati fodrata de vayro et una zupa (voir note 61) de zendali yaldo. Unum mantellum scarleti fodrati de vayro cum gonella ab homine. Unum mantellum et una guarnazia fodrata de zendali. Unum mantellum duplum et una guarnazia dupla de zendali rubeo et yaldo.*

<sup>60</sup> *Mantellum, cappa, mantelina*. Sur leur fonction de manifestation du pouvoir, O. Blanc, *Le manteau, vêtement de l'autorité*, in *Vêtire et pouvoir : XIII<sup>e</sup>-XX<sup>e</sup> siècle*, dir. C. Aribaud et S. Mouysset, Toulouse 2003, pp. 53-66.

<sup>61</sup> Une garnache ; une gonelle ; *una supraveste de zendali vermilio* : ce pourrait être, eu égard au nom et à l'étoffe, une soubreveste que l'on passe par-dessus la cuirasse ; *una zupa* : soit un pourpoint, soit un vêtement long ; *unum palidelum cum busto dorato* : il doit s'agir d'un paletot, vêtement de dessus court, à manches courtes (F. Piponnier et P. Mane, *Se vêtir au Moyen Âge*, Paris 1995, p. 87 ; Delort, *Le commerce des fourrures* cit., p. 402).

<sup>62</sup> La formulation (nn. 58 et 59) indique que « écarlate » est ici le nom de l'étoffe ; mais comme la couleur n'est pas précisée, elle est vraisemblablement rouge écarlate. Sur cette question délicate, J. H. Munro, *The Medieval Scarlet and the Economics of Sartorial Splendour*, in *Cloth and Clothing in Medieval Europe. Essays in Memory of Professor E. M. Carus-Wilson*, London 1983, pp. 13-70 ; D. Cardon (dir.), *Teintures précieuses de la Méditerranée : pourpre, kermès, pastel*, Carcassonne 1999 ; D. Cardon, *Le monde des teintures naturelles*, Paris 2003, pp. 469-516.

<sup>63</sup> La saie est une fine étoffe de laine : D. Cardon, *La draperie au Moyen Âge. Essor d'une grande industrie européenne*, Paris 1999, pp. 478-491.

<sup>64</sup> Une soie légère, souvent utilisée pour les doublures, particulièrement courante en Italie.

<sup>65</sup> *Una cappa de camelino fodrata de pelle. Una mantelina fodrata de vayro de camelino*. Le camelin est une étoffe de laine légère.

<sup>66</sup> L'expression *omnes de blaveto, omnes de viridi* (note 58) suggère que ces deux termes, comme l'écarlate, désignent des types d'étoffes et non pas seulement leur couleur.

<sup>67</sup> *Yaldo* (note 59), c'est-à-dire *qualdo*, teint en jaune, à la gaude (*qualda*).

<sup>68</sup> *Rubeus*, le rouge donné par la garance (*rubia tinctoria*), moins dense que l'écarlate et le vermillon : Cardon, *Le monde des teintures* cit., pp. 97-140 ; J.H. Hofenk-De Graaff, *The Chemistry*

deux sont « dorés »<sup>69</sup>. Presque tous les manteaux et garnaches sont doublés de vair (de renard dans un cas) ou de cendal. *Primeranus* possède aussi une ceinture d'argent<sup>70</sup>, deux édredons (*cultras*) de cendal, un jeu de couvertures de cheval de cendal vermillon, des tapis, une couverture en peau de loup doublée de drap vermillon et vert et une autre en drap bleu, une douzaine de grands draps et deux douzaines de serviettes.

L'ensemble atteste une solide aisance, et atteint le luxe avec l'écarlate ; quant au vair, ou petit-gris, il est coûteux mais relativement courant<sup>71</sup> ; c'est la fourrure distinctive des docteurs, ce qui convient bien à *Primeranus*. Le nombre et la qualité des vêtements peuvent être mis en rapport avec le souci de l'apparence qu'éprouve ce personnage officiel, souvent en représentation. Ils correspondent aussi à la passion pour les beaux vêtements et pour les fourrures qui dévore les milieux dominants de ce temps : elle va conduire dès la génération suivante à l'apparition de la mode, au gonflement des budgets d'habillement et à la généralisation des fourrures, déjà bien présentes dans les vêtements de *Primeranus*. Du vivant de celui-ci déjà, des lois somptuaires sont promulguées par beaucoup de communes pour réglementer le luxe vestimentaire en fonction de la place qui est reconnue à chacun dans la hiérarchie sociale<sup>72</sup> ; mais on n'a que des épaves de celles qui ont été décrétées à Crémone<sup>73</sup>. *Primeranus*, à la fois juge<sup>74</sup> et de famille féodale, donc considéré

of Red Dyestuffs in Medieval and Early Modern Europe, in *Cloth and Clothing* cit., pp. 71-80 ; M. Pastoureaux, *Jésus chez le teinturier : couleurs et teintures dans l'Occident médiéval*, Paris 1997, pp. 40-43.

<sup>69</sup> Voir notes 59 et 61.

<sup>70</sup> Item [un mot en blanc] *corigia argenti*. Voir M.G. Muzzarelli (dir.), *La legislazione suntuaria, secoli XIII-XVI. Emilia-Romagna*, Roma 2002, index, art. *corigia*. On attendrait aussi des boutons ou autres ornements d'argent, dont la loi de 1300 (ci-dessous) révèle qu'ils sont portés en grand nombre.

<sup>71</sup> *Codex diplomaticus* cit., I, nn. 1126, p. 186 et 1136, p. 289 (inventaires de biens plutôt modestes, 1292 et 1296) ; les statuts de 1339 précisent que « le cendal, le vair et les fourrures (*pelles*) portés [par les femmes] sous les vêtements ne doivent pas être considérés comme des ornements [interdits] » (*Statuta et ordinamenta* cit., p. 68) ; les verriers vénitiens défilent en 1268 vêtus d'écarlate doublé de vair (A.I. Pini, *Le arti in processione. Professione, prestigio e potere nelle città-Stato dell'Italia padana medievale* in Pini, *Città, comuni e corporazioni nel medioevo italiano*, Bologna 1986, p. 273).

<sup>72</sup> M.G. Muzzarelli, *Reconciling the Privilege of the Few with the Common Good : Sumptuary Laws in Medieval and Early Modern Europe*, in « The Journal of Medieval and Early Modern Studies », 39 (2009), pp. 597-617 ; Muzzarelli, *Gli inganni* cit. ; Muzzarelli (dir.), *La legislazione suntuaria* cit.

<sup>73</sup> Un essai de recensement, certainement partiel, ne relève que des textes peu significatifs : ils visent essentiellement les bijoux et autres accessoires, à part la rubrique de 1339 consacrée au costume féminin (n. 71) : *Codex diplomaticus* cit., II, n. 77 p. 139, 1300 (mentionnant un autre texte récent) ; F. Robolotti, « *Pragmatica o vero ordini sopra il vestire e banchettare fatti per la città de Cremona : con l'autorità del Senato di Milano* », in « Archivio storico lombardo », 5 (1878), pp. 725-735 (texte du XVI<sup>e</sup> s. et mention de la rubrique de 1300 et d'une version un peu différente de celle de 1339) ; C. Kovesi Killerby, *Sumptuary Law in Italy 1200-1500*, Cambridge 2002, pp. 27, 28, 144 (mention du texte de 1300 et de deux autres, sans référence, de 1297 et 1387). Je remercie Diane Chamboduc de Saint-Pulgent, qui m'a aidé à repérer ces fragments.

<sup>74</sup> Les statuts de 1339 évoquent sans précision les privilèges et l'immunité des juges : *Statuta et ordinamenta* cit., pp. 183-184.

comme noble<sup>75</sup>, jouit de toute façon du privilège que possèdent les membres de ces deux catégories de s'habiller aussi richement qu'ils le souhaitent : il peut légitimement afficher sa distinction en se vêtant d'écarlate et de petit-gris et en portant une ceinture d'argent<sup>76</sup>.

Par la richesse des informations qu'il livre, l'inventaire après décès de *Primeranus de Diviciolis* permet donc de faire sortir de l'anonymat un acteur secondaire de la vie politique crémonaise durant une de ses périodes les plus créatives, le régime de Popolo. À travers cet homme dont nous sont révélés des traits qui restent à jamais inaccessibles pour maintes personnalités de plus grande envergure, s'esquisse un groupe défini par ses origines et son statut social, ses choix politiques, ses sources de revenus, par sa maîtrise de savoirs et de savoir-faire dans les domaines de l'administration, des finances, du commandement militaire, du droit – celui-ci particulièrement développé et bien connu dans le cas de *Primeranus* –, et même par ses façons d'habiter et de se vêtir : c'est la petite aristocratie féodale et citadine, terrienne, affairiste et cultivée, que nous saisissons ici dans sa version guelfe et ralliée, ou au moins alliée, au Popolo. Un texte comme celui-ci illustre la place que tient ce groupe social dans la société et la politique crémonaises du deuxième âge communal, aussi bien que dans le recrutement des magistrats itinérants au temps de la domination populaire et guelfe.

<sup>75</sup> Selon l'usage lombard.

<sup>76</sup> Sur l'assimilation des juges aux chevaliers par les lois somptuaires, Muzzarelli, *Gli inganni* cit., pp. 136-158. Ce régime dérogatoire se développe à partir des années 1330 : M.G. Muzzarelli, *Introduzione*, in Muzzarelli (dir.), *La legislazione suntuaria* cit., pp. XXI-XXII. Ce n'est qu'un pan du débat sur la noblesse que confèreraient les études de droit : P. Gilli, *La noblesse du droit. Débats et controverses sur la culture juridique et le rôle des juristes dans l'Italie médiévale*, Paris 2003, pp. 69-96.

# ***La fin du Grand schisme d'Occident : la résolution de la rupture en obédiences***

par Hélène Millet

En créant durablement deux obédiences, l'une romaine et l'autre avignonnaise, le Grand schisme a frappé de plein fouet l'idéal unitaire dont la papauté se targuait d'être le garant dans la chrétienté latine<sup>1</sup>. Le fonctionnement de l'organisme, tel qu'avaient achevé de le mettre au point Innocent III et le 4<sup>ème</sup> concile du Latran (1215), s'était trouvé complètement grippé. L'Église d'Occident s'était vu brutalement rappeler qu'elle n'était pas un corps uniquement clérical : les divisions des puissances séculières avaient imposé leur loi territoriale au tissu des diocèses et des provinces ecclésiastiques<sup>2</sup>. Né dans le sillage de la dispute autour de la tiare, la rupture de l'unité de la chrétienté latine s'était imposée comme un autre drame. Si le schisme de 1378 mérite son qualificatif de Grand, ce n'est certes pas seulement parce qu'il avait duré très longtemps, c'est aussi et surtout parce que, à la différence des précédents schismes pontificaux, il avait entraîné une « déchirure de la robe sans couture du Christ »<sup>3</sup>.

Dans cet article, je souhaite élucider le processus de réduction des obédiences – autrement dit montrer quels furent les principes et les marqueurs territoriaux selon lesquels intervinrent les artisans, clercs et laïcs, de l'union – et rendre ainsi hommage à la dimension européenne des travaux de Giorgio Chittolini. Cet ambitieux propos connaît toutefois une limite dans la mesure où mes recherches personnelles n'ont que très rarement porté sur la période

<sup>1</sup> Toutes les histoires de l'Église donnent un résumé du Grand schisme d'Occident et une bibliographie. En italien, le livre d'A. Landi, *Il papa deposto (Pisa 1409). L'idea conciliare nel grande scisma*, Torino 1985, développe un point de vue qui tranche sur la doxa historiographique catholique.

<sup>2</sup> Dans sa thèse, Hugues Labarthe vient de montrer comment en Gascogne, pays fragmenté en de multiples entités seigneuriales, où les frontières en tout genre s'entrecroisent, s'était déjà appliquée la maxime *cujus regio ejus religio*. Voir H. Labarthe, *Un espace-frontière au défi d'une crise internationale. (Grand Schisme d'Occident - Gascogne, vers 1370-1430)*, Université Toulouse II-Le Mirail 2009.

<sup>3</sup> L'expression, souvent utilisée pour décrire le Grand schisme, fait référence au sacrilège que même les soldats romains n'ont pas commis puisqu'ils ont préféré tirer au sort la robe sans couture du Christ plutôt que de la déchirer pour la partager comme le reste de ses vêtements (Jn 19, 23-24).

postérieure au concile de Pise (1409) alors qu'il faut aller jusqu'au 3 avril 1417, jour de l'incorporation des ambassadeurs castillans au concile de Constance, pour assister à la dernière étape des retrouvailles des royaumes et des nations de l'Occident latin dans le giron ecclésial<sup>4</sup>. En outre, j'ai bien davantage sollicité les archives se rapportant à la France, ce qui déséquilibre encore plus mon étude.

La lecture du livre de Hans Joachim Schmidt, *Kirche, Staat, Nation. Raumgliederung der Kirche im mittelalterlichen Europa*, m'a toutefois confortée dans l'idée qu'il valait la peine de réévaluer, fût-ce de façon partielle, l'importance du temps du Grand schisme au regard du positionnement de l'Église militante dans la jungle des pouvoirs temporels et de son insertion dans l'espace et les contraintes territoriales<sup>5</sup>. Dans une étude qui embrasse tout le Moyen Âge, la part faite aux quarante années du schisme ne pouvait être qu'exiguë. On les retrouve surtout dans la section consacrée à l'émergence des nations à la faveur des conciles dits œcuméniques, depuis celui de Lyon II (1245) jusqu'à celui de Bâle (1431-1449)<sup>6</sup>. Mais dans la tendance générale, qui va d'un fonctionnement unifié de la chrétienté divisée en provinces ecclésiastiques sous la houlette du pape à la formation d'Églises nationales en plus ou moins grande dissidence par rapport à Rome, de quel poids a pesé le schisme ? S'agit-il vraiment d'une parenthèse qui s'est très vite refermée après l'élection de Martin V, sans guère laisser de traces à l'exception de l'entrée en scène de ces fameuses nations au concile de Constance<sup>7</sup> ? Quels furent au juste les moyens mis en œuvre pour rapprocher les morceaux déchirés du tissu ecclésial ?

Partant du constat que le schisme pontifical était en lui-même un conflit de "nations", je commencerai par mener une enquête sur le sens que les clercs de l'époque donnaient à ce mot. Puis j'examinerai les modalités de l'intervention des rois et des princes pour les situer dans leur contexte non pas politique mais ecclésiologique. Je chercherai enfin quelles voies pouvait prendre une revitalisation du corps ecclésial.

### 1. *Nation d'origine et nation conciliaire*

En 1378, après soixante-dix années de résidence de la papauté en Avignon, la question de la région de naissance du futur pape fut regardée comme cruciale. Les récits des contemporains s'accordent au moins sur ce

<sup>4</sup> Je me suis récemment expliquée sur les orientations de mes recherches dans les introductions à deux recueils de mes articles : H. Millet, *L'Église du Grand Schisme 1378-1417*, Paris 2009 (Les médiévistes français, 9), pp. 9-12 et H. Millet, *Le concile de Pise. Qui travaillait à l'union de l'Eglise d'Occident en 1409?*, Turnhout 2010, pp. 7-18.

<sup>5</sup> H.J. Schmidt, *Kirche, Staat, Nation. Raumgliederung der Kirche im mittelalterlichen Europa*, Weimar 1999 (Forschungen zur mittelalterlichen Geschichte, 37).

<sup>6</sup> Il est tout à fait remarquable que l'auteur ait fait une place au concile de Pise parmi ceux-ci.

<sup>7</sup> Sur le concile de Constance, je renverrai ici une fois pour toutes à W. Brandmüller, *Das Konzil von Konstanz 1414-1418*, 2 voll., Paderborn-München-Wien-Zürich 1991-1997.

point : que ce soit dans la rue ou dans le secret du conclave, le critère des origines s'était imposé comme déterminant dans le choix que les cardinaux eurent à effectuer pour remplacer le défunt Grégoire XI, natif du Limousin. Aux cris de la foule « Romano lo volemo, o almanco italiano » avaient correspondu les luttes d'influence à l'intérieur du collège cardinalice<sup>8</sup>. Comme l'a expliqué Francesco Uguccione à Medina del Campo, la "nation" que les Italiens disaient ultramontaine s'était divisée en deux camps, celui des Français et celui des Limousins, ouvrant ainsi la carrière à un pape italien du fait de l'hostilité commune des Italiens et des Français envers la "nation limousine"<sup>9</sup>.

Uguccione s'était exprimé en latin et, pour décrire les clivages qu'avait générés l'origine des cardinaux à l'intérieur du sacré collège, il avait utilisé le mot *natio*, que j'ai traduit par "nation" en ajoutant des guillemets pour montrer que le terme devait être entendu dans un sens qui n'est plus celui que nous lui donnons depuis le XIX<sup>e</sup> siècle<sup>10</sup>. En effet, l'extraordinaire fortune du sentiment national et des nationalismes en Europe lui a conféré une coloration politique qui n'entraînait nullement dans le concept médiéval de *natio*. L'usage qu'en fait Uguccione est à cet égard fort clair. Incluse dans la nation ultramontaine, il y avait la nation limousine, nullement exclusive de la précédente. Aucune de ces deux nations ne correspondait à un royaume ou à un peuple ; aucune des deux ne renvoyait à ce que nous nommerions aujourd'hui une nation, c'est-à-dire un groupe d'hommes organisé politiquement, ou aspirant à l'être, sur la base de leur identité d'origine, de langue et/ou de culture.

En 1381, l'année où il discourait à Medina del Campo, Uguccione ne pouvait savoir que le concile qui rétablirait l'unité s'organiserait en nations. Celles qu'il avait dénoncées comme nourricières du schisme, il faut d'ailleurs le signaler, n'ont rien ou peu à voir avec les cinq nations – *anglicana, gallicana, germanica, italica et hispanica* – qui se sont finalement imposées à Constance. Ces dernières ont beaucoup intéressé les historiens des nationalismes. Il était tentant d'y voir une préfiguration de l'Europe de 1848. Les querelles qui ont animé l'arène conciliaire à leur sujet se sont d'ailleurs révélées riches de propos inspirés par la fierté d'appartenir à tel ou tel groupe dont l'histoire avait façonné les contours<sup>11</sup>. Visiblement, les esprits avaient beaucoup évolué en l'espace de quarante ans. Mais la nation telle que l'envi-

<sup>8</sup> N. Valois, *La France et le Grand Schisme d'Occident*, 4 voll., Paris 1896-1902, t. 1, p. 12.

<sup>9</sup> « Propter multas eorum voluntates, de nulla persona Ultramontane nationis concordare potuerunt, facientes Ultramontani de se duas partes, quarum una vocabatur Lemovicensis (...). Alia pars vocabatur Gallicorum (...). Alii vero Italici stabant in se ipsis (...). Nam revera illa pars gallicorum obtulit se Italicis, dicens quod potius volebant Italicum, quam de natione Lemovicensi ». Voir H. Labarthe éd., *Obediences*, < <http://obediencies.net/index.php?nompaga=interventions&TEI=493&partie=2> >.

<sup>10</sup> Dans la suite du texte, le mot, quoique utilisé dans son sens médiéval, sera sans guillemets.

<sup>11</sup> Voir par exemple K.F. Werner, *Les nations et le sentiment national dans l'Europe médiévale*, in « Revue historique », 244 (1970), pp. 285-304 ; C. Beaune, *Naissance de la nation France*, Paris 1985 ; J.-P. Genet, *English Nationalism : Thomas Polton at the Council of Constance*, in « Nottingham Medieval Studies », 28 (1984), pp. 60-78.

sageait Ugucione au début du schisme était-elle si différente de la nation conciliaire de 1415 ?

Avant de vouloir apporter une quelconque réponse à ces questions, il convenait de tenter de clarifier la signification du latin médiéval *natio*. Aussi ai-je décidé d'effectuer une plongée dans son champ sémantique, à partir de deux monuments littéraires qui ont façonné l'intellect des clercs : le Décret et la Bible<sup>12</sup>. L'interrogation des versions numérisées disponibles sur Internet du Décret de Gratien et de la Vulgate a produit 17 occurrences dans le premier texte et 99 dans le second<sup>13</sup>. Ce dernier résultat surprend dans la mesure où nos Bibles actuelles font un usage beaucoup plus fréquent du mot nation. Ainsi, la *Concordance de la Bible de Jérusalem* le recense 711 fois<sup>14</sup> ! On ne saurait dire plus éloquemment combien il faut se méfier du glissement de sens qui a fait passer d'une notion relativement étroite à un concept invasif. En fait, le mot actuellement traduit par nations correspond le plus souvent au *gentes* de la Vulgate (908 occurrences).

Dans le Décret, près de la moitié (8) des occurrences de *natio* correspondent à un emploi du mot selon la définition qu'en donnait Isidore de Séville : le terme servait tout simplement à désigner le lieu dont un individu était originaire<sup>15</sup>. Il était alors au singulier et relevait de la déclinaison d'identité ; il était unique là où, pour définir la même chose, nos formulaires administratifs modernes proposent deux items : lieu de naissance et nationalité. Cette acception est beaucoup plus rare dans la Bible et ne se trouve vraiment que dans les Actes des Apôtres (18, 24) : « Iudaeus autem quidam, Apollo nomine, Alexandrinus natione, vir eloquens devenit Ephesum ». Une propriété essentielle de cette notion venait de ce qu'elle s'accommodait d'une grande élasticité dans la précision de la localisation. Le qualificatif de lieu pouvait aussi bien désigner un continent que le territoire d'une cité. Sont entre autres attestés dans le Décret un « Gelasius natione Afer » (D. 54, c. 2) et un « Vitalianus natione Signensis » (D. 63, c. 21).

<sup>12</sup> Pour cette partie de l'étude, j'ai bénéficié de l'aide d'un ami, bon connaisseur de la Bible, Antonio Gonzalez. Sans doute aurait-il fallu poursuivre l'enquête dans le détail et de façon moins artisanale, mais l'obligation de rendre cette contribution sans trop déborder des délais impartis m'en a dissuadée. Sur l'importance de la Bible comme manuel de science politique, voir en particulier P. Buc, *L'ambiguïté du Livre. Prince, pouvoir, et peuple dans les commentaires de la Bible au Moyen Âge*, Paris 1994. Le rôle joué par le Décret, sans doute plus évident, mériterait une plus grande attention à cet égard.

<sup>13</sup> Pour la Bible : The University of Chicago. The ARTFL [Analyse et Traitement Informatique de la Langue Française] Project. Version de la Vulgate DRBO [Douay-Rheims Bible Online] : < <http://www.lib.uchicago.edu/efts/ARTFL/public/bibles/vulgate.search.html> >. Pour le Décret : Münchener Digitalisierungszentrum, Version de l'édition Friedberg, Leipzig, 1879 : < <http://mdz.bib-bvb.de/digbib/gratian/text/> >.

<sup>14</sup> *Concordance de la Bible de Jérusalem*, Paris-Turnhout 1982, pp. 715-718. Ce n'est en revanche pas le cas pour le mot peuple, présent 2044 fois dans la Bible de Jérusalem (*ibidem*, p. 850), alors que *populus* semble lui correspondre puisqu'il est utilisé 2081 fois dans la Vulgate.

<sup>15</sup> Voir B. Guenée, *L'Occident aux XIV<sup>e</sup> et XV<sup>e</sup> siècles. Les États*, Paris 1971, pp. 112-132 et B. Guenée, *État et nation en France au Moyen Âge*, in « Revue historique », 237 (1967), pp. 17-30.



Pour traduire le grec *ethnos*, saint Jérôme et ses émules ont généralement opté pour un pluriel, *gentes*, aujourd'hui également rendu par des pluriels : les nations ou les païens<sup>16</sup>. Cet usage d'*ethnos* correspondait à celui de *goi* dans la Bible hébraïque : il s'agissait pour un Juif de désigner tous ceux qui n'étaient pas juifs<sup>17</sup>. Dans le second Testament, les chrétiens ont aussi considéré comme formant un seul bloc ceux qui n'étaient pas chrétiens. À l'époque où s'élaborait la théorie dite de la substitution, il était logique que, les chrétiens se substituant au peuple juif, ils utilisent pour désigner les non chrétiens le terme servant déjà pour les non juifs : tous étaient donc des *gentes* pour un lecteur médiéval de la Bible. Cependant, parmi les emplois d'*ethnos*, il en est resté une centaine pour lesquels la Vulgate a choisi *natio* au lieu de *gentes*. Que voulait-on dire par là ?

De l'examen de ses occurrences, il ressort que le mot *natio* a surtout servi pour le premier Testament : 58 fois dans la Bible hébraïque, 34 fois dans la Bible grecque et 7 fois dans le second Testament. Son utilisation m'a paru répondre au besoin de distinguer, parmi les non juifs, certains groupes humains. Ainsi le voit-on par exemple en Juges 6, 3 : « cumque sevisset Israhel ascendebat Madian et Amalech et ceteri orientalium nationum ». Plus souvent encore, *nationes* renvoyait à la pluralité et à la variété de ces groupes. Autant *gentes* rendait compte de la catégorie des non juifs dans sa globalité, autant *nationes* insistait sur leur fragmentation et leur multiplicité, au besoin en renforçant cette idée avec une locution, comme dans Deutéronome, 25, 19 : « Dominus Deus tuus dederit tibi requiem et subiecerit cunctas per circuitum nationes in terra quam tibi pollicitus est ». Il convenait de souligner que, contrairement aux Juifs, peuple unique de Dieu, les non juifs étaient divisés en ethnies selon les langues et les coutumes : ils étaient une multitude éparpillée de peuplades.

On observe une utilisation similaire de *natio* dans les neuf passages du Décret qui ne répondaient pas au sens Isidorien. Toujours au pluriel, le nom est souvent complété par un adjectif insistant sur le nombre et la diversité des nations. Ainsi, l'usage romain devait-il s'imposer à tous : « quamvis de hac re diuersae hominum nationes diuersa sentiant » (C. 33, q. 4, c. 7). La variété des origines supposait des us et coutumes différents, voire contradictoires qu'il convenait d'unifier.

De toutes ces observations, il paraît possible de conclure que, aussi bien dans la Bible que dans le Décret, le mot *natio* désignait un groupe d'hommes auquel on appartenait en fonction de ses origines. Au singulier, les occurrences du Décret témoignent d'un usage courant au sein d'une

<sup>16</sup> C'est du moins ce qui ressort du relevé du mot nation dans la *Concordance de la Bible. Nouveau Testament*, Paris 1983, effectué sur le texte de la Bible de Jérusalem, qui classe les occurrences des mots en fonction du mot grec d'origine (voir la section "nation", pp. 420-422).

<sup>17</sup> Ainsi le voit-on à partir d'un relevé (effectué dans *Ancien Testament interlinéaire hébreu-français*, Villiers-le-Bel 2007) des mots hébreux que la Vulgate avait traduits par *natio*. En s'aidant de *La Bible d'Alexandrie. Le Pentateuque*, C. Dogniez et M. Harl éd., Paris 2001, on constate que là où l'hébreu disait *goi* et la Vulgate *natio*, le grec utilisait *ethnos*.

locution figée, mais d'une grande élasticité géographique. C'est d'ailleurs avec cette acception qu'on l'a rencontré sous la plume d'Uguccione pour exposer les causes du conflit survenu en 1378. Au pluriel, Bible et Décret se rejoignaient pour donner à ce mot une coloration péjorative : la variété des nations tranchait avec l'unicité du peuple élu. Les auteurs de la Vulgate eurent probablement une réticence à l'utiliser pour le second Testament, comme si l'ordre de porter la Bonne nouvelle du salut aux nations (*gentes* : Mt, 28, 19) avait déjà virtuellement dissout leurs différences dans la chrétienté.

Ainsi renseignés sur l'usage de ce mot dans les deux piliers de la culture cléricale médiévale, nous comprenons mieux le sens qu'il faut lui donner lorsqu'il apparaît, à partir du XIII<sup>e</sup> siècle, comme une composante du milieu universitaire, puis, de façon plus sporadique, lors de la tenue d'un concile général. Dans les deux cas, le sens précédemment dégagé de "groupe d'hommes auquel on appartenait en fonction de ses origines" convenait parfaitement. Dans les deux cas, pour que ces nations existent, il fallait que des clercs venant d'horizons différents se rassemblent. Dans les deux cas enfin, leur apparition avait été tributaire des circonstances.

En effet, les nations d'étudiants étaient des organismes associatifs d'entraide qui ont pris des formes variées selon les lieux<sup>18</sup>. Très vivantes à Paris ou Bologne, elles n'ont pas réussi à s'implanter à Toulouse avant le XVI<sup>e</sup> siècle. Le nombre et l'appellation des groupements n'étaient pas fixes ; ils sont passés de dix à quatre à Orléans ; à Paris, la nation anglaise devint allemande à la faveur du Grand schisme et de la guerre de Cent ans. De même, les nations conciliaires n'ont pas été décrétées ; elles sont apparues de façon spontanée et discontinue, une par une, à partir du concile de Lyon I (1245), sans jamais avoir été investies d'une valeur canonique.

Au concile de Pise, ce sont les Français qui fonctionnèrent en nation, avec des réunions qui leur étaient propres à l'église Saint-Martin, selon une pratique qui se généralisa à Constance<sup>19</sup>. Mais, même s'il semble que leur exemple ne fut pas contagieux, lorsqu'il fallut composer la commission chargée d'entendre les témoins durant l'instruction du procès intenté aux deux papes (24 avril), il parut tout à fait normal de faire appel à des clercs appartenant aux différentes nations représentées au concile (*de qualibet nacione*), en fonction de leur importance numérique : il y eut ainsi trois fois quatre auditeurs *pro Gallicis*, *Italicis* et *ex parte Germanie*, mais un seul *pro Anglia*, et encore un *pro Provincia*. Toutefois, en juillet, quand il fut question d'établir un programme de réformes, la configuration des groupes avait été modifiée : il y eut alors des discussions entre clercs venus de France, d'Angleterre, de Bohême, de Pologne, de Germanie et de Provence.

<sup>18</sup> J. Monfrin, M.-H. Jullien de Pommerol, *Les archives des universités médiévales, problèmes de documentation*, in « Revue française de pédagogie », 27 (1974), pp. 6-21.

<sup>19</sup> Je ne fais que résumer ici les observations rassemblées par Schmidt, *Kirche, Staat, Nation* cit., pp. 463-467.

Ces variations, bien en phase avec la malléabilité du concept lui-même, rendaient impossible l'établissement de listes de participants classés selon les nations. Mais de telles listes n'existent pas davantage pour le concile de Constance, alors que le fonctionnement en nations y avait pris un tour systématique<sup>20</sup>. Lors du conclave ayant conduit à l'élection de Martin V, le 11 novembre 1417, les cardinaux avaient même accepté de siéger au côté de représentants des nations, désignés par elles à raison de six délégués pour chacune. Cette procédure, avait-on aussi décidé, ne devrait jamais être réutilisée : c'était une exception qui confirmait la règle et la règle n'avait pas à être modifiée. Dès lors, ne pas établir de liste selon les origines, n'était-ce pas aussi se conformer aux traditions ? En fait, à Constance, les nations n'auraient-elles pas été davantage subies qu'intronisées ? Subies et tolérées parce que constitutives du schisme, mais finalement occultées du fait des arrière-plans théologiques qu'induisait leur acception biblique. Les Pères pouvaient-ils en effet admettre qu'une assemblée représentant l'Église universelle offre une image des divisions humaines ? Puisque toutes les différences entre les hommes étaient abolies en Christ selon l'adage paulinien (Ga 3, 28), l'Église réunie en concile n'avait pas à faire étalage de ses nations.

Ce rapport ambigu aux nations et la tentation constante qu'elles représentaient sont parfaitement illustrés par le choix effectué par les liturgistes de Clément VII lorsque ce pape leur demanda de composer une messe pour l'unité de l'Église, en 1392<sup>21</sup>. Son introït est en effet emprunté au Psaume 105 (106) qui comporte à lui tout seul deux occurrences de *natio*. Dans le verset 47 choisi comme chant d'entrée, les clercs ont supplié : « *Salvos fac nos Domine Deus noster et congrega nos de nationibus ut confiteamur nomini tuo sancto et gloriemur in laude tua* ». Le peuple implorait son Seigneur de le faire s'assembler du milieu des nations. Tombé dans l'inanité de ceux qui ne connaissaient pas le Dieu unique, il avait failli se dissoudre dans la multitude ; mais il allait se ressaisir et retrouver son unité et sa dignité de peuple élu.

## 2. *L'appel aux rois et aux princes*

Ainsi mijoté au creuset des nations, le conflit qui s'était déclaré puis envenimé entre Urbain VI et ses électeurs ne pouvait que sortir de la curie et des milieux ecclésiastiques pour être ébruité selon des canaux diplomatiques. Dès l'automne 1378, les papes dépêchèrent des légats pour plaider leur cause auprès des rois et des princes, et, comme vient de le montrer Hugues Labarthe, l'envoi de nonces en tous genres durant toute la durée du conflit contribua surtout à l'installer et à faciliter l'organisation en obédien-

<sup>20</sup> Sur les listes de participants établies à Constance, j'ai été renseignée par S. Vallery-Radot dont la thèse, en cours d'achèvement, porte sur *Les Français au concile de Constance : pratiques conciliaristes et construction d'une identité nationale*.

<sup>21</sup> Sur cette création, voir R. Amiet, *La messe pour l'unité des chrétiens*, in « *Revue des sciences religieuses* », 28, (1954), pp. 1-30.

ces ennemies<sup>22</sup>. La “voie de fait” où se sont immédiatement engouffrés les antagonistes en vue de mettre un terme à leur lutte fratricide n’avait pas d’autre fondement que la loi du plus fort sur un champ de bataille, par principes interposés.

En effet, autant les nations étaient floues et, en définitive, non ecclésiales, autant il était clair pour tous que les rois étaient investis d’une mission sainte qui leur venait tout droit de Dieu, à l’instar de David et de Salomon. Ainsi, dans la lettre de dédicace de son *Epistola concordiae* (1380) au comte palatin du Rhin, Conrad de Gelnhausen expliquait que tous les rois et princes chrétiens étaient les exécuteurs de l’ultime parole du Christ « Je vous donne ma paix, je vous laisse la paix » (Jn 14, 27), et tout spécialement les électeurs d’Empire, constitués princes de la paix par la divine volonté<sup>23</sup>. Quant à lui, en tant que canoniste, il ne recherchait pas un chef de guerre mais de l’assistance pour la convocation d’un concile général ; tel était en effet selon lui le remède approprié à la situation, mais pour le mettre en œuvre, on ne pouvait compter ni sur la collaboration des deux papes ni sur l’initiative de l’un d’eux, car ce que ferait un seul serait immédiatement dénoncé par l’autre. À l’époque, les cardinaux, ces “colonnes de l’Église romaine”, n’étaient pas une instance de recours imaginable tant ils étaient absorbés à défendre la légitimité de celui qu’ils avaient choisi ou qui les avaient faits. Dans son épître, Gelnhausen s’évertuait à passer au dessus de leur tête, tout en faisant profession de la plus grande humilité.

Quel que soit le moyen par lequel on entendait résoudre le schisme, ce moyen nécessitait donc l’intervention, d’une façon ou d’une autre, des puissants de ce monde. Du reste, il suffisait d’explorer l’histoire pour constater que l’Église vacillante avait toujours été rétablie par des princes séculiers, qu’elle n’avait jamais su se relever d’elle-même. Telle était la troisième des sept propositions ajoutées en guise de conclusion à la liste des vingt-deux schismes du libelle de Télesphore de Cosenza, dans sa version diffusée de façon autonome (1387)<sup>24</sup>.

<sup>22</sup> H. Labarthe, *Les légats pontificaux : vecteurs du dérèglement romain dans l’Occident latin (1378-1429)*, à paraître dans les Actes du colloque *Les légats pontificaux*, Paris, 12-14 février 2009. Recensement de 220 légations de 1378 à 1429 sur le site *Obédiences* : < <http://obediencies.net/legations.php> >.

<sup>23</sup> « Quoniam Deus noster Jesus Christus (...) quasi in modum testamenti pacem suis relinquit dicens ‘Pacem meam do vobis, pacem relinquo vobis’ profecto eius se non esse heredem manifeste demonstrat qui pacem non persequitur et inquit. Et licet omnes reges et principes christiani generaliter huius testamenti executores et procuratores existere dinoscantur (...) singulariter tamen electores imperii principes pacis divinitus sunt constituti etc. ». Voir F. Bliemetzrieder, *Literarische Polemik zu Beginn des grossen abendländischen Schismas*, Vienne-Leipzig 1910, p. 114 ; version numérisée sur le site *Obediencies* : < <http://obediencies.net/index.php?nompag=interventions&TEI=493&partie=3> >. Conrad de Gelnhausen avait d’abord envoyé sa lettre au roi de France Charles V, puis à l’électeur palatin Ruprecht l’Ancien, à Wenceslas de Luxembourg, roi des Romains et de Bohême enfin.

<sup>24</sup> Cette version a été repérée dans sept manuscrits. Dans celui de Paris, Bibliothèque nationale de France, Lat. 3184, les sept propositions figurent au fol. 121v. Voir H. Millet, *Écoute et usage des prophéties par les prélats pendant le Grand Schisme d’Occident*, in « Mélanges de l’École française de Rome. Moyen Âge - Temps modernes », 102 (1990), pp. 291-683).

Pour beaucoup de bonnes âmes, convoquer les rois à s'engager dans le dénouement du schisme, c'était les inviter à empiéter dans un domaine réservé aux clercs. Mais telle n'était pas la vision de l'Église qui prévalut alors au royaume de France. Dans un dialogue catéchétique rédigé en 1388 à l'intention de Charles VI, le *Liber dialogorum hierarchie subcelestis*, au catéchumène qui s'exclamait : « Il est surprenant, père, que les princes se mêlent de telles affaires ! », son instructeur répondait : « Mais pas du tout. Ne font-ils pas partie de l'Église ? » (Livre II, ch. 10<sup>25</sup>). On définissait alors volontiers l'institution comme étant la réunion de tous les fidèles (*congregatio fidelium*). En conséquence, le schisme était l'affaire de tous. Dans un discours prononcé devant Charles VI en 1391, le théologien Gilles des Champs s'employa à démontrer que, si quelqu'un ne travaillait pas à l'union, on était fondé à le tenir pour hérétique<sup>26</sup>.

Personne n'imaginait encore quel genre d'aide Simon de Cramaud allait requérir des rois pour ramener l'Église à l'unité<sup>27</sup>. Dans le *De substraccione obediencie* qu'il commença à rédiger en 1396, le patriarche d'Alexandrie prit pour incipit le v. 10 du Psaume 2, *Nunc reges intelligite*, où le Seigneur apostrophe les rois pour qu'ils cessent de se faire la guerre<sup>28</sup> ; par la voix du psalmiste, il enjoignait donc aux rois de son temps de ne plus se quereller entre eux et de s'enrôler à nouveau au service de Dieu et de son Église. Après avoir rappelé la composition de chaque obédience<sup>29</sup>, Cramaud posait d'entrée de jeu et sans ambages la question cruciale : puisque chacun des papes refuse de s'effacer, ne pensez-vous pas que les rois et les royaumes que je viens d'énumérer peuvent légalement (*canonice*) refuser de continuer à leur obéir<sup>30</sup>? Ce

<sup>25</sup> Sur ce traité encore inédit, voir R. Scholz, *Eine Geschichte und Kritik der Kirchenverfassung vom Jahre 1406*, in *Papsttum und Kaisertum*. Paul Kehr zum 65 Geburtstag, München 1926, pp. 595-621 et H. Millet, *Le Liber dialogorum hierarchie subcoelestis (1388)*, in *Vaticana et medievalia. Études en l'honneur de Louis Duval-Arnould*, J.-M. Martin, B. Martin-Hisard et A. Paravicini Bagliani éd., Firenze 2008, pp. 367-394. On trouvera la citation au fol. 22 du ms Reg. Lat. 715 de la Biblioteca Apostolica Vaticana : « Cathecuminus : Mirandum, pater, quod principes in hiis intromiserent se. Orthodoxus : Ymo, non mirandum ! Numquid ipsi sunt de Ecclesia ? ».

<sup>26</sup> La seconde des cinq *Conclusiones propositae coram rege Francorum a magistro Egidio de Campis* (Arch. Vat., Lat. 4927, fol. 136) disait ceci : « Si sit aliquis qui juvare possit ad huius unionem consequendam, et impedit, scismaticus est censendus ». Sur ce discours, voir H. Millet, *Le cardinal Gilles des Champs (ca 1350-1414)*, in *Les prélats, l'Église et la Société XI<sup>e</sup>-XV<sup>e</sup> siècles. Hommage à Bernard Guillemin*, Bordeaux 1994, pp. 231-241.

<sup>27</sup> Sur le rôle primordial joué par Simon de Cramaud durant le schisme, voir H. Kaminsky, *Simon de Cramaud and the Great Schism*, New Brunswick (New Jersey) 1983.

<sup>28</sup> L'œuvre a été éditée par H. Kaminsky : *Simon de Cramaud. De substraccione obediencie*, Cambridge (Mass.) 1984.

<sup>29</sup> « Ytalia, Hungaria, Almania, Anglia et alie nationes multe tenuerunt Bartholomeum (...). Regnum Francie, Scocie et Arragonie, Navarre, Hispaniae, collegium antiquorum cardinalium qui fuerunt in utraque electione (...) et multe alie nationes, dominum Clementem ». *De substraccione obediencie* cit., p. 69. On remarquera que Cramaud qualifiait de nations les pays qui n'étaient pas des royaumes. D'autre part, le royaume de Sicile et de Jérusalem manque dans cette énumération. Cela pourrait-il signifier que, du fait de la subordination de son roi envers le Saint-Siège, le juriste estimait qu'il ne pouvait pas se rebeller *canonice* (voir ci-dessous) ?

<sup>30</sup> « Et primo quero, numquid reges et regna superius declarata tam obediencie Bonifacii quam obediencie domini Benedicti, ipsis ambobus nolentibus renunciare, possint obedienciam cano-

que Cramaud démontrait dans son traité en juriste consommé, des théologiens se chargèrent ensuite de le fonder sur un principe biblique : il valait mieux obéir à Dieu qu'aux hommes (Ac 5, 29).

Quoi que cela ait coûté aux clercs, à ceux de cette époque et, probablement plus encore, à ceux qui en écrivirent l'histoire, force est de reconnaître que la révolte et le refus d'obéir aux papes furent les passages obligés du retour à l'unité. En effet, si la soustraction d'obédience telle qu'elle fut pratiquée en France de 1398 à 1403 n'a pas produit les fruits escomptés, elle a en revanche servi de laboratoire expérimental. En mai 1408, lorsque les cardinaux italiens donnèrent le signal de la sécession, ils se tournèrent immédiatement vers les rois pour les exhorter à les suivre dans la rébellion. Leur première missive fut pour Ruprecht, le roi des Romains, à qui il incombait de protéger sa mère l'Église en vertu de sa dignité de César<sup>31</sup>. Dans le cahier où il copia cette lettre, le secrétaire a ensuite énuméré ceux qui en reçurent une identique, *mutatis mutandis*, dans l'ordre que voici :

1. tous les rois, à savoir ceux de France, Angleterre, Hongrie, Pologne, Bohême, Portugal, Castille, Navarre, Danemark, Suède, Norvège, Aragon, Sicile et Jérusalem, et certaines reines,
2. tous les patriarches, archevêques, évêques et élus, ainsi que certains abbés et certains chapitres,
3. presque tous les ducs, marquis, landgraves, burgraves, comtes, barons, chevaliers et autres notables,
4. quelques vicaires de la Sainte Église romaine, des communautés, le clergé, le peuple et les "universités" des *studia* dotés de privilèges<sup>32</sup>.

On aurait probablement tort d'imputer au secrétaire l'initiative d'avoir ainsi hiérarchisé sa liste, en donnant le pas aux laïcs sur les clercs, car la procédure suivie pour l'envoi des convocations au concile de Pise obéissait à une logique tout à fait similaire. Pour la circonstance, toutes les terres de la chrétienté romaine furent le théâtre d'un ballet diplomatique de grande envergure sur lequel on est assez bien renseigné. Dans l'obédience urbaniste, celle qui avait la plus grande extension géographique, dix-sept ambassades avaient été planifiées, avec chacune une aire d'action bien délimitée et des consignes précises sur l'identité des personnes à qui remettre les missives<sup>33</sup>. La mission donnée à Antonio da Rieti et Francesco Pizolpasso me servira d'exemple pour montrer comment on avait procédé<sup>34</sup>.

nice subtrahere seu penitus denegare » : *De substraccione obediencie* cit., p. 74.

<sup>31</sup> « Spectat, illustrissime et christianissime princeps, ad vestre cesaree dignitatis debitum, cum in temporalibus unum in orbe caput esse noscamini, sanctam matrem ecclesiam in suis necessitatibus subvenire, protegere et in quibuscumque casibus sublevare et ab ea detrimenta et iniurias propulsare » : J. Vincke, *Briefe zum Pisaner Konzil*, Bonn 1940 (Beiträge zur Kirchen- und Rechtsgeschichte, 1), n. 21, p. 44.

<sup>32</sup> Vincke, *Briefe* cit., p. 45.

<sup>33</sup> On se souvint alors que Ruprecht du Palatinat n'était pas le seul à se dire roi des Romains, mais qu'il n'était que « rex secundo electus », tandis que Wenceslas de Luxembourg était « in Romanum regem primo electus ». Ces titulatures figuraient-elles dans les lettres ?

<sup>34</sup> Antonio da Rieti était un franciscain maître en théologie, procureur de son ordre à la curie

Les deux hommes étaient partis de Pise le 16 septembre 1408 pour aller «ad regem Ungarie et ipsius regnum» et ils furent de retour le 26 février 1409. Au roi Sigismond, ils devaient apporter une lettre *Regium nomen*. Des lettres *in forma prelatorum* étaient destinées au cardinal de Pécs, aux patriarches d'Aquilée, de Grado, d'Alexandrie et de Jérusalem, aux archevêques de Split et de Zadar, à l'évêque exempt de Ferrare et aux archevêques d'Esztergom, de Kalocsa-Bacs (Hongrie), de Dubrovnik, et de Bar (Montenegro). Au secteur défini au départ, le royaume de Hongrie, avaient donc été rattachés les patriarchats d'Italie du Nord, probablement visités en chemin, et des provinces qui supposaient une longue extension de l'ambassade en Dalmatie, Ferrare étant peut-être le port de retour. Les évêques suffragants et les abbés de ces territoires devaient recevoir des lettres correspondant à leur dignité. De fait, onze sièges épiscopaux ont été nommés<sup>35</sup>, puis le rédacteur ajouta que semblables lettres devaient être distribuées à tous les autres évêques et aux prélats, abbés et prieurs, des provinces et des patriarchats en question. Après avoir mentionné que le royaume de Hongrie en tant que tel devait être gratifié des deux types de lettres prévues pour l'universalité des chrétiens et que les collecteurs avaient aussi des missives propres, il en vint aux grands seigneurs laïcs, destinataires des lettres *Principum, ducum*, à savoir les comtes dominant les pays traversés et les principaux conseillers du roi de Hongrie, cet item se terminant avec le doge de Venise<sup>36</sup>. Deux corps constitués, le conseil du roi de Hongrie et la cité de Trieste avaient aussi droit à une missive, ainsi que les chapitres de plusieurs cathédrales et, curieusement signalé ici en dernier, le marquis d'Este.

Toutes ces indications montrent que l'ambassade poursuivait un double objectif : convaincre le plus grand nombre et n'oublier aucun membre du corps ecclésial. La partie communication de l'opération reposait sur les rois. Le schisme, conflit de nations, les concernait au plus haut point et – les cardinaux en avaient désormais la certitude – c'étaient les rois qui détenaient la clé du problème. Pour les atteindre, il convenait de toucher ceux qui étaient chargés de les conseiller, jugés tout aussi influents que les grands lieutenants de la hiérarchie féodale. Par les rois, on pourrait aussi atteindre, voire

romaine, Francesco Pizolpasso, humaniste connu, un clerc de Bologne scribe des lettres apostoliques. Voir le descriptif de leur mission dans Vincke, *Briefe* cit., H p. 227 et, pour la date de leur retour, Vincke, *Briefe* cit., O p. 235.

<sup>35</sup> Concordia (Italie), Zagreb, Veszprém, Eger et Várad en Hongrie, Trieste, Krbava (Croatie), Vác et Csánad (Hongrie), Senj (Croatie), Castello (Italie) et enfin Segnien. (ou Signen. ou Sirmien.), probablement Szerém l'actuelle Sremska Mitrovica en Serbie.

<sup>36</sup> Gergely Kiss est venu au secours de mon peu de science sur la Hongrie (déficiência certainement partagée avec ceux qui ont copié et déchiffré ces textes) pour identifier certains des destinataires énumérés dans cet item : « comiti de Ortenberg (plutôt Ortenburg en Carinthie ?), comiti de Gorici (Gorizia en Frioul), comiti Silie (Celje en Slovénie), et Segorie, magno comiti etc., domino Stibano (Stibor, voïvode de Transylvanie), militi, conciliario dicti domini regis, domino Pipo de Scolariis (Filippo Scolari alias Pipo d'Ozora), comiti etc., conciliario et capitaneo dicti regis, comiti Segniensi (du nom de la cité épiscopale citée à la fin de la note précédente), duci Venetiarum ».

contraindre, les prélats. Le formulaire *Regium nomen* comportait une clause demandant explicitement qu'il soit fait usage de la puissance royale contre les récalcitrants, tandis que, inversement, les lettres destinées aux archevêques ou aux évêques ne les poussaient nullement à intervenir auprès des grands de ce monde<sup>37</sup>.

Pour faire en sorte que tous les évêques sans exception aient été conviés au concile – une condition canonique de sa validité –, les structures politiques étaient en revanche inadaptées, parce que pleines de zones mal contrôlées ou placées sous la domination de princes non chrétiens. Au contraire, le système des provinces ecclésiastiques offrait cette garantie inappréciable d'avoir une extension continue et universelle. Le ralliement massif des officiers de la curie urbaniste au mouvement unioniste mit à la disposition des cardinaux une main d'œuvre rompue aux techniques curiales de transmission<sup>38</sup>. Comme on était dans l'incertitude sur la manière dont les messages seraient reçus, on eut donc recours aux deux filières de communication. Tout en cherchant à ce que les convocations soient remises en mains propres au plus grand nombre de prélats, on comptait aussi sur les patriarches et les métropolitains pour jouer leur rôle de relais auprès de leurs suffragants, ceux-ci étant à leur tour supposés diffuser l'information en faisant placarder des proclamations *Universis Christi fidelibus* et en transmettant des lettres *ad hoc* aux communautés les plus importantes de leur diocèse.

Ces principes transparaissent aussi dans l'ordre adopté pour dresser les listes de participants au concile, encore conservées en grand nombre<sup>39</sup>. Les cardinaux, puissance invitante, y étaient nommés en premier, tous réunis en un collège unique et cités dans leur ordre d'ancienneté ; étaient ensuite recensés les rois, les princes et autres grands seigneurs s'étant fait représenter, autres témoins particulièrement éloquents de la volonté d'abolir les obédiences ; après seulement venait la litanie des prélats selon leur ordre hiérarchique, la préséance étant donnée à ceux qui s'étaient déplacés en personne. Il n'a subsisté qu'une seule liste classée selon les provinces ecclésiastiques, mais elle a également placé en tête la catégorie des ambassadeurs des rois et des princes<sup>40</sup>.

<sup>37</sup> On lit ainsi dans *Regium nomen* : « Preterea archiepiscopos, episcopos et alios regni vestri prelatos (...) ad accessum exhortari et inducere placeat et velit, ac eciam, si opus esset quod credere non valeamus, regali ut tenemini potencia cohartari ». Voir Vincke, *Briefe* cit., n. 41, p. 85.

<sup>38</sup> C. Revest, *Leonardo Bruni et le concile de Pise*, in « Medioevo e Rinascimento », 23/n.s. 20 (2009), pp. 155-180.

<sup>39</sup> J'ai travaillé sur ces listes à plusieurs reprises. Voir le recueil où ces articles sont réédités : Millet, *Le concile de Pise* cit.

<sup>40</sup> G. di Santa Teresa [Maioli], *Un nuovo elenco dei partecipanti al concilio di Pisa del 1409*, in « Ephemerides Carmeliticae », 16 (1965), pp. 384-411. D'après l'auteur, on aurait évité de dresser des listes par provinces ecclésiastiques pour ne pas mettre les absences en évidence. L'argument peut être retourné, car chacun savait aussi à l'époque que les deux papes avaient convoqué des conciles rivaux, à Perpignan et à Cividale : la liste montre alors au contraire avec éclat que le mouvement unitaire avait été majoritaire dans les deux obédiences. Une comparaison avec la liste des participants à Perpignan (il n'en a pas subsisté pour Cividale) est à cet égard très éloquente.



Avec le concile de Constance, faut-il le rappeler, le sens des relations s'inversa. Ce ne furent pas les clercs qui firent appel aux rois et aux princes, mais le nouveau roi des Romains, Sigismond de Luxembourg, qui fit pression sur le pape Jean XXIII à toutes les étapes de la vie de l'assemblée, à commencer par sa convocation. Le monde apprit par un édit issu de sa chancellerie qu'un nouveau concile serait réuni, bien avant que n'aient été rédigées les bulles d'indiction. Le processus de soustraction des royaumes ibériques à Benoît XIII se serait-il enclenché s'il ne s'était pas rendu en personne à Perpignan ? En tout, Sigismond se comporta en empereur des temps antiques, ayant pour ligne de mire les huit conciles œcuméniques que les chrétiens, grecs et latins, considéraient comme le socle de leur tradition.

### 3. *Les provinces ecclésiastiques : un enjeu pour la réforme*

L'Église avait eu très tôt conscience de ce qu'elle perdrait son temps et peut-être son âme à ajuster ses frontières à celles, en constantes mutations, des entités politiques. Le maillage des provinces ecclésiastiques avec son découpage en diocèses de superficie très variable n'avait que fort peu changé depuis l'Antiquité, si ce n'est pour s'étendre aux nouvelles terres de mission. En maints endroits, il n'avait pas été adapté aux mutations démographiques. Instantanément demandées par les instances politiques, quelques retouches furent apportées, précisément durant le schisme ; mais combien d'autres suppliques avaient été écartées ! Le système avait pour lui la continuité<sup>41</sup>.

Cependant, après la codification des usages pastoraux locaux telle qu'elle fut entérinée par le concile Latran IV (1215), le régulier accroissement des prérogatives de la papauté s'est fait dans une indifférence totale par rapport à l'ordre provincial, ainsi que l'a mis en évidence le livre de Hans Joachim Schmidt. Tandis que la multiplication des exemptions revenait à diminuer le territoire relevant des évêques, les ordres mendiants furent autorisés à se constituer en provinces, différentes pour chaque ordre et n'ayant qu'un lointain rapport avec le réseau diocésain. De plus, pour envoyer ses légats et ses collecteurs, presque à chaque fois, le pape remaniait le découpage des circonscriptions de façon à les adapter aux dominations des régions concernées par les problèmes à résoudre ou les décimes à collecter<sup>42</sup>. Dans ces conditions, comment s'étonner de l'anémie progressive de la vie ecclésiale dans les diocèses et, plus encore, au niveau provincial ? La "querelle entre mendiants et séculiers" s'inscrivait dans un tournant ecclésiologique d'une ampleur beaucoup plus grande que ne le laisse supposer le titre du célèbre article d'Yves Congar<sup>43</sup>.

<sup>41</sup> Schmidt, *Kirche, Staat, Nation* cit., pp. 39-101 et 120-175.

<sup>42</sup> Sur les variations des circonscriptions des collecteurs, voir la thèse d'Amandine Le Roux, *Les collecteurs pontificaux dans le royaume de France (1316-1516), étude d'un groupe et d'une fonction*, Université de San Marino 2008.

<sup>43</sup> Y. Congar, *Aspects ecclésiologiques de la querelle entre mendiants et séculiers dans la seconde moitié du XIII<sup>ème</sup> siècle et le début du XIV<sup>ème</sup>*, in « Archives d'histoire doctrinale et littéraire

Il était donc parfaitement logique que les propositions de réforme formulées à l'occasion de la tenue du concile de Vienne (1311-1312) s'intéressent au plus haut point à la reprise de l'activité conciliaire à l'échelon provincial et à la tenue régulière des synodes diocésains<sup>44</sup>. Qui consulte le *Tractatus de modo generalis concilii celebrandi* de Guillaume Durand constate que l'œuvre ne répond que très imparfaitement à ce titre, car elle traite principalement du concile provincial<sup>45</sup>. Ainsi, que ce soit sous la responsabilité d'un métropolitain, d'un patriarche ou d'un primat, les prélats devraient se retrouver deux fois l'an pour la célébration commune d'un concile, autrement dit pour une assemblée délibérative consacrée à l'examen des problèmes rencontrés dans le ressort territorial correspondant à la qualité de celui qui avait lancé les convocations.

Bien qu'il faille compter avec la disparition des témoignages de réunions sans éclat particulier, il est certain que le XIV<sup>e</sup> siècle ne donna pas lieu à une reprise considérable de ces rencontres, car on retrouve la même critique et la même pressante invitation à renouer avec la tradition dans le *Liber dialogorum hierarchie subcelestis* déjà cité plus haut. L'auteur, un dominicain anonyme, faisait de la tenue régulière des conciles provinciaux la clé de voûte de la réforme devant guérir l'Église de ses maux, à commencer par le schisme<sup>46</sup>. Tout comme Guillaume Durand, il accordait un intérêt particulier aux primats, prélats intercalés entre le pape et les archevêques par les Fausses Décrétales, bien que cette invention, après avoir connu une réelle fortune, soit remarquablement entrée en sommeil au XIV<sup>e</sup> siècle<sup>47</sup>.

Or, au vu de la maigre documentation subsistante, il est manifeste que, loin de rester lettres mortes, les exhortations de l'Anonyme à la réforme avaient inspiré les décisions prises à l'issue des assemblées du clergé pour organiser l'Église du royaume de France et du Dauphiné en période de soustraction d'obédience. À l'été 1398, pour résoudre le problème d'une autorité supérieure à celle de l'archevêque, le concile provincial parut une solution, mais on se demandait encore comment faire pour l'assembler<sup>48</sup>. La tenue d'un concile de la province

au Moyen Âge », 36 (1961), pp. 35-151.

<sup>44</sup> C. Fasolt, *Council and Hierarchy. The Political Thought of William Durant the Younger*, Cambridge, 1991.

<sup>45</sup> J'ai pour ma part consulté le *Tractatus de modo generalis concilii celebrandi* dans l'édition de F. Clouzier, Paris, 1671.

<sup>46</sup> Au catéchumène qui le prie de récapituler son enseignement sur les conciles provinciaux ou primatiaux à la fin du traité, son instructeur répond : « Verum faris, o fili, non celebrare enim dicta concilia est fere omnium malorum que videmus in ecclesia initium, sive radix, medium et causa » (Biblioteca Apostolica Vaticana, Reg. lat. 715, fol. 44v).

<sup>47</sup> Ainsi, la thèse de F. Delivré (*L'évêque du premier siège. La papauté et l'office du primat-patriarche dans l'Occident médiéval [fin XI<sup>e</sup> - début XVI<sup>e</sup> siècle]*, Université de Paris I, 2006) passe directement du XIII<sup>e</sup> siècle à l'époque du Grand schisme.

<sup>48</sup> G. Barraclough, *Un document inédit sur la soustraction d'obédience de 1398*, in « Revue d'histoire ecclésiastique », 30 (1934), pp. 101-115. Voir le § 15 du document publié : « Item si l'en appelle de l'arcevesque, attendu qu'il n'y ait point de patriarche, ou l'en appellera ? Et si l'en appelle au conseil provincial, comment sera assemblé ? Quar plusieurs causes comme toutes qui aloient en Avignon vendront la, si seroit fort dur et tart de faire souvent le conseil general. – Non fuit decisum ».

de Tours en 1400 (alors qu'il ne s'en était pas réuni depuis 1366) est peut-être l'indice que la mesure avait fini par être adoptée<sup>49</sup>. En 1401, pour la réunion d'une assemblée franco-allemande à Metz, un mandat royal enjoignit aux archevêques d'y envoyer des représentants de leur province dont les frais de déplacement seraient couverts collectivement<sup>50</sup>. Du reste, en 1396 comme en 1398, la province avait été la division retenue par la chancellerie royale pour dresser ses listes de participants aux assemblées du clergé<sup>51</sup>.

Lors de l'assemblée de 1406-1407, après avoir traité de l'union, on avait ouvert le dossier de la réforme ainsi que le rappelait une circulaire royale du 10 octobre 1407 demandant aux officiers de justice de prêter main forte aux abbés qui avaient été désignés pour réunir des chapitres provinciaux dans l'ordre bénédictin<sup>52</sup>. Pour les conciles provinciaux, les sources manquent, mais comment ne pas penser que la réunion de celui de Reims, prévu pour le 21 juin 1407, ne s'inscrivait pas dans la même ligne<sup>53</sup> ? D'autant que la législation adoptée en novembre 1408 (« *Advisamenta super regimine Ecclesiae gallicanae durante neutralitate deliberata* ») consacrait toute une section (« *de ministratione justitiae* ») à la tenue des conciles provinciaux et que cette section s'achevait par des prescriptions pour les chapitres provinciaux dans l'ordre bénédictin<sup>54</sup>. On prévoyait alors que les archevêques devraient célébrer un concile provincial annuel d'une durée minimale d'un mois, que les évêques pourraient s'y faire représenter en cas d'empêchement et que, si l'archevêque venait à faillir, un autre prélat ayant prééminence pourrait convoquer et présider une telle assemblée.

Cette volonté de faire fonctionner l'Église du royaume dans le cadre provincial trouva un terrain d'application immédiat avec le concile de Pise. Les convocations parvinrent aux prélats par l'intermédiaire de Simon de Cramaud alors qu'ils étaient réunis en assemblée à Paris. Il fut alors décidé que chaque province ecclésiastique désignerait des délégués, manière de pro-

<sup>49</sup> J. Avril, *Les conciles de la province de Tours*, Paris 1987, pp. 403-408.

<sup>50</sup> H. Millet, *L'évêque de Maguelone au rendez-vous franco-allemand pour l'union de l'Église : Metz, 24 juin 1401, in Retour aux sources. Textes, études et documents d'histoire médiévale offerts à Michel Parisse*, Paris 2004, pp. 689-698.

<sup>51</sup> Ainsi en témoignent, pour 1396, la liste établie pour lancer les convocations (F. Ehrle, *Archiv für Literatur- und Kirchen-Geschichte des Mittelalters*, t. VI, 1889, pp. 211-216) et, pour 1398, la copie des bulletins du vote de la soustraction d'obédience dans le registre de chancellerie Paris, Archives Nationales, J 518 (voir H. Millet et E. Poulle, *Le vote de la soustraction d'obédience en 1398*, t. 1, *Introduction. Edition et fac-similés des bulletins du vote*, Paris 1988, pp. 305-312).

<sup>52</sup> U. Berlière, *Documents inédits pour servir à l'histoire ecclésiastique de la Belgique*, t. 1, Maredsous 1894, pp. 78-80. Le début de la circulaire explique : « Cum nos (...) consilium ecclesie regni nostri et Delphinatus nuper in urbe nostra Parisiensi convenire mandassemus (...) tandem ad reformationem et conservationem aliquarum partium ecclesie totum consilium sese convertit. » On sait que des chapitres eurent lieu à Saint-Germain des Prés et à La Daurade de Toulouse en 1408, à Saint-Pierre de Chalon-sur-Saône en 1409 et à Saint-Faron de Meaux en 1410.

<sup>53</sup> T. Gousset, *Actes de la province ecclésiastique de Reims*, 4 voll., Reims 1842-1844, t. 2, pp. 638-666.

<sup>54</sup> L. Bourgeois du Chastenet, *Nouvelle Histoire du concile de Constance*, Paris 1718, *Preuves*, pp. 282-283.

céder qui avait été prescrite par Clément V pour le concile de Vienne un siècle auparavant mais dont les cardinaux n'avaient évidemment pas soufflé mot car elle était parfaitement inadaptée à la situation de fractionnement en obédiences. D'ailleurs, les prélats français furent laissés libres de répondre individuellement à l'invitation qu'ils avaient reçue s'ils n'avaient pas été choisis comme délégués de leur province<sup>55</sup>.

En Provence et en Angleterre, pays où, comme en France, plusieurs métropoles se partageaient le territoire, des réunions de concertation en vue d'organiser la députation de délégués par province eurent également lieu<sup>56</sup>. Celle qui se déroula à Aix-en-Provence, le 22 janvier 1409, avait rassemblé le clergé des provinces d'Aix, Arles et Embrun ; autant dire que l'impulsion avait été donnée par Louis d'Anjou, une fois qu'il eut décidé de suivre la politique de son cousin, Charles VI, pour son comté de Provence<sup>57</sup>. En Angleterre, Henry IV hésita sur la marche à suivre et finit par susciter des assemblées séparées dans les deux provinces qui se partageaient son royaume : à York le 11 décembre 1408 et à Canterbury le 14 janvier 1409<sup>58</sup>. Cependant, dans les sources conciliaires, on ne voit jamais agir séparément les deux délégations.

A Pise, rien n'avait donc été prévu à l'échelon provincial et il ne pouvait pas en avoir été autrement. Pourtant, à bien lire le chroniqueur de Saint-Denis (qui fut en l'occurrence informé par l'évêque de Gap, ambassadeur de Louis d'Anjou<sup>59</sup>), on constate que la répartition des présents selon les provinces s'offrit comme un moyen adapté pour gérer l'afflux des participants lors des délibérations informelles, hors session. Ainsi, le 8 mai, les cardinaux déclarèrent aux ambassadeurs des princes et aux prélats se trouvant avec eux dans l'église Saint-Martin qu'il serait bon que quelques-uns soient désignés pour assister à leurs délibérations et les rapporter aux autres. À quoi Simon de Cramaud répondit que, pour la nation de France, l'archevêque ou un délégué de chaque province remplirait cet office. Et, ajouta le chroniqueur, on décida qu'il en serait ainsi pour les autres nations<sup>60</sup>. De fait, les 9 et 11 mai, ces

<sup>55</sup> H. Millet, *Les Français du Royaume au concile de Pise*, in *Crises et réformes dans l'Église. De la réforme grégorienne à la Préréforme*. Actes du 115<sup>e</sup> Congrès national des Sociétés savantes, Paris 1991, pp. 259-285. Le système de délégation par province avait pour conséquence concrète la prise en charge financière du déplacement par cette instance.

<sup>56</sup> D'après H. J. Schmidt (*Kirche, Staat, Nation* cit., p. 462), cela aurait été aussi le cas pour l'Irlande, mais je n'ai pas trouvé trace de participant irlandais au concile de Pise.

<sup>57</sup> Vincke, *Briefe* cit., n. 72. Les listes de participants au concile montrent que l'évêque de Nice, ville sous domination savoyarde depuis 1388, n'avait pas participé au concile bien que son diocèse ait appartenu à la province d'Embrun.

<sup>58</sup> M. Harvey, *Solutions to the Schism. A study of some English attitudes 1378 to 1409*, Sankt Ottilien (Kirchengeschichtliche Quellen und Studien, 12), pp. 150-151.

<sup>59</sup> Voir H. Millet, *Michel Pintoin chroniqueur du Grand Schisme d'Occident*, in *Saint-Denis et la royauté. Études offertes à Bernard Guenée*, F. Autrand, C. Gauvard, J.-M. Moeglin éd., Paris 1999, pp. 213-235.

<sup>60</sup> « Quia omnes nequibant in hiis deliberacionibus interesse, bonum erat aliquos ordinare qui semper presentes, cum deliberaretur, essent, et deliberata aliis nunciarent, et si aliquos dignos ad hoc repererant, illos nominarent. Ad hoc patriarcha dixit (...). Statutumque ut sic de ceteris nationibus fieret, et ut soli nominati in deliberacionibus remanerent ». Voir *Chronique du*

« élus des provinces » assistèrent à la mise en forme de deux décrets fondamentaux, l'un par lequel le concile se reconnaissait comme représentant l'Église universelle, l'autre entérinant la licéité et le caractère obligatoire de la soustraction d'obédience<sup>61</sup>.

Il faut enfin signaler que, dans trois listes des participants au concile, une rubrique particulière, située *in fine*, a été consacrée aux « provinces qui envoyèrent des procureurs »<sup>62</sup>. L'item en dénombrait quatorze, parmi lesquelles, outre six provinces françaises, les trois provençales et les deux anglaises, se trouvaient celles de Milan, Ravenne et Pise. Une quatrième liste, dans une rubrique au titre un peu différent, avait aussi fait figurer la province de Manfredonia<sup>63</sup>. L'hypothèse que des assemblées préliminaires provinciales s'étaient également tenues en quelques régions d'Italie doit donc être formulée, même si Michele Miele n'en a pas trouvé trace. Ses recherches ont en effet abouti à la conclusion que, partout dans la péninsule, sauf dans la province de Bénévent, la tradition des conciles provinciaux avait disparu durant le XIV<sup>e</sup> siècle<sup>64</sup>.

Au bout du compte, dans un contexte qui leur était éminemment défavorable, les provinces ecclésiastiques n'avaient donc pas été totalement ignorées des pères conciliaires pisans. En France, une fois les prélats de retour, elles furent au centre des discussions sur la réforme ainsi qu'il ressort du projet élaboré par l'université de Paris en vue du concile appelé à se réunir à Rome en 1411<sup>65</sup>. Le rétablissement des conciles provinciaux et le renforcement des pouvoirs des métropolitains en étaient la clé de voûte. N'y apparaissait pas cependant la figure du primat alors qu'elle s'est de nouveau affirmée tout au long du XV<sup>e</sup> siècle, ainsi que l'a montré la thèse de Fabrice Delivré<sup>66</sup>.

A Constance, sous l'effet d'une conjoncture instable, les provinces ecclésiastiques ont été disqualifiées au profit des nations, non sans avoir été l'objet de nombreuses discussions. Mais, autant les propos portant sur les

*Religieux de Saint-Denys*, L. Bellaguet éd., Paris, 1839-1852, (réimpr. Paris 1994), t. 4, p. 228. Pour la Provence, ce fut précisément l'évêque de Gap qui fut désigné.

<sup>61</sup> La procédure fut-elle suivie tant que dura le concile ? On ne saurait le dire dans la mesure où le chroniqueur de Saint-Denis n'a pas poursuivi sa narration après la session du 25 mai.

<sup>62</sup> Deux listes ont été éditées : F. Ughelli, *Italia sacra*, t. 3, Roma 1647, coll. 556-573 (réédition de N. Coleti, Venice 1718, coll. 465-476, ici col. 476) et L. d'Achery, *Veterum aliquot scriptorum (...) spicilegium*, t. I, Paris, 1723, pp. 853-861, ici p. 861. La troisième liste est inédite : Dijon, Bibl. mun., ms 578, fol. 105v.

<sup>63</sup> J. Leinweber, *Ein neues Verzeichnis der Teilnehmer am Konzil von Pisa 1409*, in *Konzil und Papst. Festgabe H. Tüchle*, G. Schwaiger éd., Paderborn 1975, pp. 207-246, ici p. 233.

<sup>64</sup> M. Miele, *Concili provinciali e rapporti interdiocesani tra '400 e '500*, in *Vescovi e diocesi in Italia dal XIV alla metà del XVI secolo*, G. De Sandre Gasparini, A. Rigon, F. Trolese et G.M. Varanini éd., Roma 1990, II, pp. 259-294.

<sup>65</sup> H. Finke, *Acta Concilii Constanciensis*, 4 voll., Münster 1896-1928 (réimpr. 1976-1982), t. 1, pp. 131-148.

<sup>66</sup> Au § 11 du projet, la mention d'une troisième instance, avant qu'une cause ne soit portée à Rome, est la seule allusion à un quelconque échelon intermédiaire entre les métropolitains et le pape : Delivré, *L'évêque du premier siècle* cit., pp. 498-656.

nations ont été recensés et disséqués, autant ce qu'on disait des provinces n'a pas été relevé. Les paroles prononcées par Pileo Marini, peu avant la cinquième session, font ainsi figure d'exception. Selon cet archevêque de Gênes, l'omission des conciles provinciaux avait été cause de la déformation de l'Église<sup>67</sup>. Les Français n'étaient donc peut-être pas les seuls à avoir élaboré des plans de réforme tendant à revitaliser l'antique tissu ecclésial.

Malgré ses insuffisances et ses rapidités, le tableau que je viens d'esquisser suggère quelques conclusions. Mais il convient de commencer par faire le point de la question.

L'historien ne doit pas se laisser abuser par une lecture nationaliste, totalement anachronique, des événements. Les nations qui se sont imposées au concile de Constance ne sont qu'un reflet des divisions selon les origines, celles-là même qui ont généré le schisme. Loin d'être porteuses de valeurs positives, elles inspiraient la méfiance et contrevenaient à l'unité à laquelle devait aspirer l'Église, elle-même conçue comme étant le nouveau peuple de Dieu.

Dans ce conflit de nations, rois et princes furent d'abord sommés de prendre parti ; puis on les appela à l'aide pour se soustraire à l'engrenage de l'obéissance, pour ramener enfin les Églises locales au bercail conciliaire. Minorés par la réforme grégorienne, ils reprirent soudain collectivement la place qui était la leur au sein de l'Église.

Affaiblie par la progression séculaire du centralisme pontifical et totalement privée d'efficacité du fait de la formation des obédiences, l'organisation ecclésiale en provinces n'a cependant pas été balayée à la faveur de la crise. Au contraire, le rétablissement des conciles provinciaux s'imposa comme pierre d'angle d'un projet de réforme, déjà partiellement mis en application en France à partir de 1398. Les nations n'ont jamais été en position de constituer une alternative au système provincial.

Si l'on prend du recul par rapport à ces observations, la lutte qui a mobilisé princes et prélats en vue du rétablissement d'un corps ecclésial unifié apparaît lourde de conséquences. Il faut le redire avec force : cette lutte n'était pas dirigée contre le pape mais contre plusieurs papes rivaux, contrevenant à la finalité unitaire de l'office qu'ils prétendaient occuper. En s'engageant sous l'étendard de l'union, rois et prélats désertèrent du même coup la bataille suicidaire pour imposer la légitimité de l'un ou de l'autre prétendant à la tiare. Les tentations d'acéphalie qui avaient pu poindre ici ou là avaient été écartées sans état d'âme. La volonté de rétablir un pape unique dans son rôle de gardien de l'unité avait même conduit certains clercs à regarder vers les Églises d'Orient.

La lutte pour l'unité avait rétabli les évêques dans leur dignité. Habitué à se savoir membres de l'Église par le canal hiérarchique de l'ordination, doublé par un serment de fidélité au chef, ils avaient acquis en siégeant dans les assemblées conciliaires une connaissance expérimentale de leur appartenan-

<sup>67</sup> Son intervention a été relevée par Miele, *Concili provinciali* cit.

ce au corps mystique du Christ. Le fameux décret *Frequens*, si souvent interprété comme une marque de défiance envers la papauté, exprimait aussi leur attente d'une vie ecclésiale collégiale.

L'Église qui s'était redonné un pape unique n'aspirait certes pas à la restauration d'une papauté centralisée. Las des sempiternels traités *De potestate pape*, les théologiens ont à nouveau braqué le projecteur sur la pluralité des Églises. Celle de France (*Ecclesia gallicana* en latin) se connaissait un territoire mais pas de maître en dehors de la hiérarchie ecclésiastique : la volonté de restaurer les primats, qu'on ne perçoit plus aujourd'hui qu'au prisme d'interminables procès portant sur des chevauchements de juridiction, dit bien cette quête d'un espace d'autonomie dans les antiques cadres de la vie ecclésiale.

De son côté, la papauté se crut restaurée dans son pouvoir de direction des Églises. En prolongeant la vie des nations à travers les concordats, elle s'est elle-même choisi des cadres laïques pour exercer son autorité. À l'issue du concile de Constance, d'autres chemins s'offraient pourtant à elle. La formation d'Églises nationales ne doit pas être montrée comme une conséquence inéluctable de la façon dont fut résolu le schisme.





# ***What did Greeks see of Italy? Thoughts on Byzantine and Tuscan travel accounts\****

by Anthony Molho

What did the Greeks see of Florence? I do not refer to Greeks, in general. Rather, I have in mind that small army of Greek priests, theologians, court officials, and other hangers-on, who, in the early months of 1439, gathered in Florence to muster the Latins' help in the defence of Constantinople, while also hoping, parenthetically, to bring an end to the Schism<sup>1</sup>. More than 700 men, a fair sample of the Byzantine Empire's *crème de la crème*, made their way to Florence. First, they arrived in Venice, spent several weeks in Ferrara, and then, from February to May 1439, they camped in Florence, guests of the Papacy and of the city's government. The subtleties of the theological exchanges and dogmatic controversies of these encounters will not be of concern here. Much of the extant documentation has been published in excellent editions, and many of the controversies have attracted the attention of distinguished historians; so have the circumstances that led to the signing of the Union between the Greek and Latin Churches and to the Union's eventual failure. This remarkable event – the last sustained effort until our own days to forge some sort of European unity – could offer an occasion to rethink the relations between Byzantium and what we have come to refer to as Renaissance Italy. Much ink has been spilled on the impact of a few dozen Byzantine men of letters on the course of Italian (eventually, European) humanism. But what did the Byzantine notables who dwelled in Venice, Ferrara, and Florence for a reasonably prolonged period

\* I wish to thank Dimitris Gondikas and his colleagues at Princeton University for the invitation to present, before a distinguished audience, the first draft of this essay. References, below, are kept to a minimum, as I anticipate developing the themes of this presentation in a project devoted to Italian and Byzantine travel literature in the late Middle Ages.

<sup>1</sup> For the purposes of this essay, the relatively recent *Firenze e il concilio del 1439. Convegno di studi. Firenze, 29 novembre - 2 dicembre 1989*, 2 voll., ed. P. Viti, Firenze 1994 contains a series of excellent studies with up to date bibliographic references to the Council of Florence. Of these, Anna Pontani's article, *Firenze nelle fonti greche del Concilio*, vol. 2, p. 753-811 addresses, albeit often from a different perspective, themes in this essay. The best overall treatment of the Council remains J. Gill, *The Council of Florence*, Cambridge 1959 (Firenze 1967). Much useful information is also contained in J. Gill, *Personalities of the Council of Florence*, Oxford 1964.

note about their experiences there? What is it that sufficiently teased their imagination as to have left a trace in their writings?

The question comes to mind almost spontaneously, as does a sense of puzzlement at (what, initially, seemed) the failure of most other historians to ask it. It might be worth asking regardless of what European city these travellers had observed. In the case of a city such as Florence, the question has more than a passing interest. This is so not only because, from the time of Chrysoloras in the late 14<sup>th</sup> century, to Bessarion and a host of other Byzantine scholars, Florence had been the focal point of a remarkable effort to re-introduce the knowledge of Greek letters to western Europe. It is also the case that the second quarter of the fifteenth century was a period of glorious activity in the realm of the arts and letters in Florence, and that Florentines themselves, often succumbing to a spirit of proud self satisfaction, admiringly talked about themselves and their accomplishments.

Initially, it seemed that a good place to begin might have been the nature of the Greeks' curiosity about the cities which hosted them for a few months. Soon, however, this expectation turned to surprise, and only shortly thereafter to frustration. The more one read the available sources – from the great chronicle of Syropoulos to the admittedly few surviving bits of other evidence – the more one became puzzled by the Greeks' reticence on matters that, one would like to think, should have left an impression on them<sup>2</sup>. When they were in Florence, Donatello's David might have left them indifferent. But should the basilica of Santa Maria Novella where a number of them lodged, not elicited a comment or two from them? Or the basilicas of Santa Croce, and San Miniato and its Byzantine mosaics just outside the city? Instead, with the exception of a few details to be examined below, at first sight, the records left by the Greek priests and noblemen about their Florentine sojourn seem puzzling in their paucity. Apparently, the Greeks either were uninterested, or unimpressed.

There are few traces in their writings of the curiosity Italian travellers, time and again throughout the communal period, exhibited for the lands of the Greeks, Arabs, and Ottoman Turks. Cristoforo Buondelmonti and Ciriaco d'Ancona are but two remarkable, but from this perspective not exceptional, Italian travellers to the Aegean Sea in the first half of the fifteenth century<sup>3</sup>. A

<sup>2</sup> The text of Sylvester Syropoulos' *Απομνημονεύματα* is in V. Laurent, *Les "Mémoires" du grand ecclésiastique de l'Église de Constantinople Sylvester Syropoulos sur le concile de Florence (1438-1439)*, Paris 1971, where, in the *Introduction* one finds a summary of Syropoulos' life and career, as well as a history of his *Mémoires*. Useful also for a discussion of Syropoulos' position during the Council and his change of heart following his return to Constantinople is Gill, *Personalities*, ch. 12: *The 'Acta' and the Memoirs of Syropoulos as History*. For the *ekphrasis* of the *festa di San Giovanni* in 1439 written by a Greek member of the Greek delegation, *Quae supersunt actorum graecorum Concilii Florentini*, ed. J. Gill, Roma 1953.

<sup>3</sup> For general back ground see two relatively recent books, which contain ample bibliography: F. Cardini, *In Terrasanta. Pellegrini italiani tra Medioevo e prima età moderna*, Bologna 2002; N. Bisaha, *Creating East and West. Renaissance Humanists and the Ottoman Turks*, Philadelphia 2004. Much useful information accompanied by interesting insights in J. Hankins, *Renaissance Crusaders: Humanist Crusade Literature in the Age of Mehmed II*, in «Dumbarton Oaks Papers», 49 (1995), p. 111-207.

similarly acute curiosity about the world found magnificent expression in Fra Mauro's Mappamondo, completed only shortly following the Greek delegation's stop over in Venice<sup>4</sup>. Along side these, literally dozens of other travellers left intensely interesting accounts of their pilgrimages, diplomatic missions, or commercial ventures. Why were the Italians so loquacious, and the Greeks, seemingly, not? More precisely, what words or expressions might seem more appropriate for us to use when referring to the failure of the Greeks to leave a substantial record (except of course for what refers to theological and ritual matters) of their Italian journey? How to account for the choice of events, sites, monuments, or objects they described, while they overlooked so much more? Was it a failure of imagination? Lack of curiosity, or disinterest in mundane matters? A particular Greek or Byzantine perspective?

Whatever the case, the fact is that a student of the subject is confronted by records that either included relatively few bits of evidence, or that, often, range from the reticent to the silent. To be sure, this silence has not gone unnoticed. More than thirty years ago, Cyril Mango, reflecting on what he defined as the distorting image of Byzantine literature, rather despondently concluded that: «Many Byzantines travelled to strange lands, went on missions to Baghdad and Kiev, performed pilgrimages to Rome and Jerusalem, spent years in captivity among the Arabs, yet not one of them has recorded his experience and observations»<sup>5</sup>. For all the hyperbole contained in this judgement, one can't help but note that others scholars, such as George Dennis, editor of an excellent edition of Manuel Paleologos's letters, Edmund Fryde even, most recently, Guglielmo Cavallo would in all likelihood have agreed with Mango<sup>6</sup>. Implicit in these judgments is a juxtaposition between Byzantine travel accounts and comparable narratives of the same period written by west European travellers. If, according to Mango, not one Byzantine writer recorded his travel experiences and observations, the fact is that one need go no further than to mention Marco Polo to set the contrast between Byzantium and the West, at least in this realm of endeavour. For many of these scholars, the comparison did not result in Byzantium's favour.

There is even a tradition in Byzantine historiography that imputes to intellectuals of the Paleologan period an inability to come to terms with real-

<sup>4</sup> A. Cattaneo, *La Mappamundi di fra Mauro Camaldolese. Venezia, 1450*. Doctoral Thesis at the European University Institute, Firenze 2005; and A. Cattaneo, *Fra Mauro "Cosmographus Incomparabilis" and his "Mappamundi": Documents, Sources, and Protocols*, in D. Ramada Curto, A. Cattaneo, A. Ferrand Almeida, eds., *La cartografia europea tra primo rinascimento e fine dell'illuminismo*. Atti del convegno internazionale "The Making of European Cartography", Firenze 2003, p. 19-48.

<sup>5</sup> C. Mango, *Byzantine Literature as a Distorting Mirror*, in C. Mango, *Byzantium and its Image. History and Culture of the Byzantine Empire and its Heritage*, London 1984 (first published 1975), ch. 2, p. 17.

<sup>6</sup> *The Letters of Manuel Paleologus II. Texts, Translation and Notes*, by G.T. Dennis, Washington D.C. 1977; E. Fryde, *A comparison between the Byzantine and Italian Renaissances*, in *The Early Paleologan Renaissance (1261-ca. 1369)*, Leiden 2000, p. 387-398; G. Cavallo, *Alfabetismi e letture a Bisanzio*, in *Lire et écrire à Byzance*, ed. B. Mondrain, Paris 2006, p. 97-109.

ity, to transcend the rhetorical schemes and ekphrastic traditions which, some scholars thought, led Byzantine writers to repeat increasingly refined expressions which were unrelated with objects they observed and situations they faced. Mango himself had ventured the thought that «the dichotomy between literature and a changing reality is...one of the salient features of Byzantine culture»<sup>7</sup>. Commenting on difficulties of understanding meaning and placing in proper contexts Byzantine letters, Georges Denis expressed his frustration by commenting that «even the best letters were written according to rules which abhorred proper names, precise dates, and concrete details. The criterion of a good letter was the “purity” of its Attic Greek...»<sup>8</sup>. In her very interesting dissertation of a few years ago, Corinne Jouanno summarized this general point. The view of reality depicted by Byzantine authors of romances amounted to an «univers imbelli, magnifié, comme l’indiquent l’usage constant que nos auteurs font de l’hyperbole, et leur gout marqué pour l’expressivité». And she added that in the texts she studied, «un monde se met en place où les règles sont autres»<sup>9</sup>. In her own study of Byzantine travel books, admittedly from an earlier period of time, Catia Galatariotou arrived at a conclusion that was not far removed from that of these other scholars: «The researcher who reads Byzantine travellers’ accounts hoping for very substantial amounts of factual information is likely to be disappointed»<sup>10</sup>. In recent years, some mild objections have been voiced against this widely held consensus. For all their caution in accepting this view, Liz James and Henry Maguire have not been able – or so it seems to this writer – to provide an alternative explanation, that would account for the minuscule number of Byzantine travel accounts, or for their authors’ failure to pay attention to the places they visited in their travels<sup>11</sup>.

This essay will concentrate on the evidence contained in one late Byzantine text, Sylvester Syropoulos’ great Chronicle of the Councils of Ferrara and Florence in the first months of 1439. Anna Pontani, in the most recent, and arguably most acute examination of the issues raised in this essay, has herself noted the paucity of evidence left by the Greek visitors to Italy in 1438-1439, and the lack of a Byzantine tradition of travel writing. Repeatedly, in an essay devoted to the subject, she notes the «grande iato» between the Greek and Italian cultures, and the existence of an «incolmabile differenza di mentalità» between them, the «incomunicabilità reciproca»<sup>12</sup>.

<sup>7</sup> Mango, *Byzantine Literature*, ch. 2, p. 17.

<sup>8</sup> Dennis in *The Letters of Manuel Paleologus II*, p. XIX.

<sup>9</sup> C. Jouanno, *L’ekphrasis dans la littérature byzantine d’imagination*, Doctorat de troisième cycle, Université de Paris IV - Sorbonne, Octobre 1987, p. 324.

<sup>10</sup> C. Galatariotou, *Travel and Perception in Byzantium*, in «Dumbarton Oaks Papers», 47 (1993), p. 221-241.

<sup>11</sup> L. James, ed., *Art and Text in Byzantine Culture, Introduction*, Cambridge 2007; H. Maguire, *Truth and Convention in Byzantine Descriptions of Works of Art*, in «Dumbarton Oaks Papers», 28 (1974), p. 111-140.

<sup>12</sup> Pontani, *Firenze*, p. 761. See also her statement, on p. 760, regarding the «bizantini persuasi

She adds that the evidence left by the Greeks is even more scarce than that of the Russian visitors to Florence, on the occasion of the Council.

The question of what can properly be considered a travel account has attracted considerable scholarly attention in recent years, without a clear consensus having been formed on this issue<sup>13</sup>. Here, I adopt a capacious definition of the term, and consider that Syropoulos's Chronicle is no less a travel account than, at one chronological end, was Benjamin of Tudela's record of his visitations of Jewish communities across the Mediterranean, and at the other end, Cristoforo Colombo's letters from the New World. All these, and dozens of other such narratives, were meant to convey their authors' impressions and reflections during their peregrinations, undertaken for one or another reason. Differences of natural environment, language, customs, very often also of religion impressed these writers with the notion that a distance – more often than not physical, but, also, cultural and political – separated them from their homes and their familiar surroundings. This notion of distance justifies the inclusion of Syropoulos' account in the category of travel literature, even though he wrote it following his return to Constantinople. Despite his account's ideological colouration, and his explicit aim to justify, before his opponents in Constantinople, his own comportment during and immediately following the Councils of Ferrara-Florence, his Chronicle, organized as it is chronologically, conveys a sense of the differences in place, and occasionally in customs, that he observed in the course of the Council's proceedings.

Following a long and not easy crossing from Constantinople, Syropoulos and the Patriarch's retinue arrived in Venice. Here, then, is the record of his arrival, the first impact, as it were, the city made on him:

We, for our part, tied up our boat at the dock of Saint Mark, and having left it we made our way to the ducal palace; and the duke, having known about it, ordered immediately that we be introduced to him, and upon seeing us at the hall's entrance he immediately rose and, as we were walking toward him, in like manner he came toward us<sup>14</sup>.

The parsimoniousness of Syropoulos' account is striking, to say the least. Nothing of what he saw, even in his brief stroll from the dock to the Ducal

della loro diversità», and on p. 770 her reference to the «silenzio su Firenze delle fonti greche del Concilio».

<sup>13</sup> Recent discussions on travel literature have been numerous. I have found especially useful Cardini, *In Terrasanta*; M.B. Campbell, *The Witness and the Other World. Exotic European Travel Writing, 400-1600*, Ithaca 1988; K. Parker, ed., *Early Modern Tales of Orient*, London 1999; J.-P. Rubiés, *Travel and Ethnology in the Renaissance. South India through European Eyes, 1250-1625*, Cambridge 2000; Ρίκα Μπενβενίστε, *Εβραίοι Ταξιδιώτες τον Μεσαίωνα*, Αθήνα 2000; A. Garcia Espada, *Marco Polo y la Cruzada. Historia de la literatura de viajes a las Indias en el siglo XIV*, Madrid 2009.

<sup>14</sup> Syropoulos in Laurent, *Les "Mémoires"*, IV, p. 16: *ἡμεῖς δε την ημετέραν περί δευτέραν ὥραν της ημέρας εις τον του αγίου Μάρκου ὠρμίσσαμεν ναύσταθμον, και εξελθόντες εις το του δουκός παρεγνόμεθα παλάτιον. ο και μαθών ο δούξ επέταξεν ευθύς και ἤλθομεν προς αὐτόν, και ἅμα τω οφθῆναι ημάς αὐτῷ ἀπὸ της πύλης τοῦ τρικλίνου, ευθὺς ἀνέστη, και ὡς ημεῖς προς αὐτόν εβαδίζομεν, οὕτω και αὐτός προς ημάς ἤρχετο...*

palace, seems to have sufficiently struck him as noteworthy. Not the canals, not the play of light and water, not the imposing architectural complex of the Ducal Palace and the adjacent cathedral of San Marco, not even the four magnificent bronze horses on top of Saint Mark's façade, pilfered from Constantinople more than two centuries before. All that, he obviously saw. But none merited inclusion in his Chronicle. Instead, he thought it important to describe, in an equally Spartan manner, the ritual geometries of the Patriarch's meeting with the Doge, as each coreographically crossed the Palace's Great Hall approaching the other.

Monuments and local customs were not exactly what Syropoulos was after. His concern was to report on the long exchanges on issues of dogma and theology. As he, himself, alerted his readers, his aim was to provide an exact record of what was said and done in the course of the negotiations and exchanges about the Council (*ακριβώς... υφηγούμαι τα τότε λεγθέντα και πραχθέντα*)<sup>15</sup>. He was also intensely concerned with the internecine fights, even on non theological issues, between members of the Roman and Greek delegations, and he certainly did not overlook the often acute disagreements among the pro- and anti-Unionist Greeks. Naturally, he was extremely sensitive about issues of protocol and ritual, and devoted long passages to conveying a sense of the magnificent hospitality extended to the two leaders of the Greek delegation, describing the opulence of the gifts made to them, and insisting on the solemnity of the rituals mounted by various local government or ecclesiastical officials in the Greeks' honour. His references to palaces, churches, means of transportation, people's dress, and local customs were incidentally woven in the passages intended to celebrate the Emperor's and Patriarch's interchanges with local officials.

For example, he referred admiringly to the lodgings ceded by the Venetian government to the Emperor (*έδειξαν ημίν οικίαν λαμπράν και περιφανή...έχουσιν κλινάς τριάντα εξ*) as well as the Patriarch's lodgings in the monastery of San Giorgio, which, Syropoulos was careful to point out, were stocked with all sorts of food stuff, listed here in an obvious effort to convey a sense of abundance and of the honour bestowed by his hosts to the Patriarch<sup>16</sup>. Just a little later, he offered a detailed description of the *Bucentauro*, the Doge's ship, sent to fetch the Emperor from his residence to the Ducal Palace. In addition to the ship's lay out, which Syropoulos describes briskly, he spent some time dwelling on the coloured fabrics that covered the seats and the walls of this imposing vessel. Following his admiration of the tissues' pleasant colours (*ουκ άνευ τέρψεως εκπληρούν*), he closed his description by referring to the five gold covered, sculpted lions of Saint Mark, that decorated the ship's bow and stern<sup>17</sup>. It was in this boat that the Doge and his retinue arrived to accompany the Emperor's own ship to the center of

<sup>15</sup> *Ibidem*, V, paragraph 8.

<sup>16</sup> *Ibidem*, IV, paragraph 18.

<sup>17</sup> *Ibidem*, IV, paragraph 20.

Venice. Escorted by a large number of other embarkations (*πλήθος πλοιαρίων*), this crowded and imposing cortège gave the impression of being another, mobile Venice (*άλλην κινητήν Βενετίαν*)<sup>18</sup>. The crowd's acclamation, the trumpets' blaring, the bells' persistent and loud ringing accompanied the cortège as the Emperor was led to his quarters, the only blemish in this magnificent occasion offered by the day's rainy weather.

Only once in his description of the delegation's Venetian sojourn did Syropoulos' attention escape from the magnificence of the Emperor's and the Patriarch's reception in Venice. When, together with the Patriarch's following, he was led to the Treasure of San Marco to view the Pala d'Oro, he could hardly contain his enthusiasm<sup>19</sup>. Historians of the Council could hardly have missed Syropoulos' excited description. The sight of those holy relics (*ιερά κειμήλια*) which, because of the law of booty (*νόμω της λείας*) had been taken from Constantinople to Venice at the time of the sacking (*αλώσεως*) by the Latins triggered his enthusiasm, expressed in a string of adjectives and adverbs which conveyed his admiration for the gems and gold, the craftsmanship of the sacred object, and its obvious material value. The nostalgic note on which he closed his long description of the Pala d'Oro suggests the Chronicle's underlying tone, perhaps even Syropoulos' psychological predisposition toward everything he saw in his Italian journey:

We heard that these icons come from the Great Holy Church [*Aghia Sophia*], but from the inscriptions and the images of the Comninoi we recognized with certainty that they were from the monastery of the Pantocrator. Thus, if these were of the monastery, one must consider how much they were surpassed by those of the Great Church, by the brilliance and splendour of the materials, the pleasantness and variety of the art, and the extraordinary value of the objects [*τη διαυγεία και λαμπρότητι της ύλης και τη φαιδρότητι και ποικιλία της τέχνης και τη του τιμήματος υπερβολή*].

Up to this point, for most of his narrative, Syropoulos carefully and somewhat diffidently observed the hierarchic and ritual order of things, intent on assuring his readers that the Venetians had granted their due of honour and respect to the distinguished visitors. Now, thanks to the sight of the Pala d'Oro he stepped back from his habitual angle of vision. Faced with this exquisitely beautiful object, he remembered a past whose unambiguous greatness exceeded any thing that he observed in Venice. To reinforce this impression was the knowledge that the Pala d'Oro's new owners could not even figure out the beautiful object's provenance, unable as they were to decipher the inscriptions and other markings on the Byzantine icons and relics they had removed from Constantinople and assembled in Venice. Arguably, the memory of a glorious but faded past was deeply engraved in his consciousness, and it helps us to understand the self referential quality of Syropoulos' recounting of his Venetian sojourn. He seemed detached, unable

<sup>18</sup> *Ibidem*, IV, paragraph 21.

<sup>19</sup> *Ibidem*, IV, paragraph 25.

to see anything that could not be accommodated within the boundaries of his Byzantine culture, its history and its traditions. The strangeness and differentness of his temporary surroundings remained beyond his intellectual grasp. They were, as we might say today, outside his mental screen.

The pattern of Syropoulos' recounting of the Ferrarese and Florentine legs of his journey remained largely unchanged. He devoted long pages to the theological discussions and other sorts of squabbles that punctuated the presence of the Greeks, and only occasionally, when he ventured into a description of a particularly important ritual, or encounter (say between the Pope and the Patriarch) was his attention drawn to some of the surroundings. There are graphic descriptions of the Marques' sumptuous boat sent to meet the delegates as they travelled down the Po, on their way from Venice to Ferrara, and of the Papal palace in Ferrara where the Greeks were led to meet Eugenius IV<sup>20</sup>. Syropoulos reports on the laborious negotiations that preceded the first meeting of the Patriarch and the Pope. Should the two embrace, as the Patriarch insisted, or should the Patriarch kiss the Pope's foot, as was the Roman custom? And what about the sitting arrangement in the cathedral? Should the Pope be seated between the Greeks and the Latins, a visible link between the two delegations, or should he take his place on one side of the isle together with his bishops and cardinals? Should the Pope's throne be aligned with those of the Patriarch and Emperor, or should the front of the two visitors' thrones come up to (but no further than) the back of the Papal throne?<sup>21</sup> In short, Syropoulos was generous in providing detailed, specific information about the complex rituals bespeaking the ambitions and fears of both delegations.

Just as with his account of Venice, occasionally (perhaps one should say, very occasionally) his attention strayed to a detail of his surroundings. When, for example, the Emperor and Patriarch were first led to meet the Pope, the Chamberlain led the Greeks through the Papal Palace to the hall where Eugenius was waiting for them. But Syropoulos noticed the strange custom of unlocking and then locking each door as the cortège traversed room after room on its way to the Papal Chamber. His curiosity peaked by this strange custom, he explained that «this was their custom» (οὕτω γὰρ ἐστὶν αὐτοῖς ἔθος)<sup>22</sup>. It is one of the very rare moments when he noted, with the outside observer's inquisitive eye, the natives' strange customs. Somewhat later, angered by the accusations of heresy levelled at the Greeks by some of the Latins, he reported that these «extremely grave» (δεινότατον) charges were written in notebooks that were being sold publicly<sup>23</sup>. A hurried glance onto what he observed in a public space in Ferrara – this is about the limit of

<sup>20</sup> *Ibidem*, IV, paragraph 29 (the Marchese of Ferrara's boat); IV, paragraph 34 (the Palace of the Pope's residence).

<sup>21</sup> *Ibidem*, IV, paragraph 40.

<sup>22</sup> *Ibidem*, IV, paragraph 34.

<sup>23</sup> *Ibidem*, VI, paragraph 8.



Syropoulos' curiosity about his surroundings. Much the same holds for his description of Florence. Syropoulos was obviously impressed by the magnificent reception reserved for the Greek visitors by the city's authorities, although, interestingly, he said nothing about Leonardo Bruni's speech, delivered by the Florentine Chancellor in Greek for the Emperor and the Patriarch's benefit. Some other details did not escape his attention.

Everyone, men and women hurried to his encounter, so that they could see and enjoy. And one could observe groups of noble ladies, some sitting in the balconies and even the buildings' tiled roofs – for in Florence, they walk and sit on roof tiles without any fear – while others, in magnificent dress, occupied the best places in street corners, from where they could admire the royal procession. Everywhere a joyous feast had been organized for the king's entrance<sup>24</sup>.

It is not the purpose of this short essay to provide a summary of Syropoulos' very lengthy chronicle. So far, the object of this presentation has been to offer sense of the narrative context in which this traveller wove his descriptions of what Joseph Gill referred to as «other matters», that is matters not related to the Council's theological discussions. On the basis of the few, preceding examples, one could venture the thought that the emphasis of some historians on the «dichotomy between [Byzantine] travel literature and reality» may be slightly more pessimistic than is warranted by the evidence<sup>25</sup>. A reading of the Chronicle does not necessarily lead to the conclusion that rhetorical conventions or antiquisant ekhraseis stood on the way of the author's ability to describe situations or objects he observed. His descriptions of the *Bucentauro* and of the Marques of Ferrara's boats are concrete, precise, written in a clear Greek that enables the reader to have a pretty good idea of the ships' appearance and lay out<sup>26</sup>. The same could be said about the small number of other descriptions in the text. Anna Pontani singled out the few instances where Syropoulos transcribed in Greek letters Italian words he heard in exchanges with Italian participants in the discussions. *Ἀμπεᾶς πατιέντσιαν*, urged the Italians on the Greeks who were unhappy with their accommodations in Ferrara. And Giuliano Cesarini, peremptorily ordered: *Πρωτονοτάριε σκριβα*<sup>27</sup>. It is a modest, if tangible collection of observations the Greeks saw and heard during their months-long Italian sojourn. The problem that requires an explanation is not so much the opaqueness (or, if one will, the complex rhetorical construction) of the descriptions, as is Syropoulos' neglect of, or seeming lack of interest in his surroundings. To put it another way, the issue at hand seems to be the author's self centeredness, even his lack of curiosity, not necessarily the lite-rary, or rhetorical expression of his observations. Michel de Certeau argued that what he defined as

<sup>24</sup> *Ibidem*, VII, paragraph 36.

<sup>25</sup> Mango, *Byzantine Literature*, p. 17.

<sup>26</sup> On Syropoulos' language, Laurent, *Les "Mémoires", Introduction*.

<sup>27</sup> Pontani, *Firenze*, p. 767.

“Heterology” enables a traveller to come to terms with others in different societies, and that a travel narrative offers an imprint of this experience<sup>28</sup>. Travel, and the narrative that it expresses, makes it possible for the writer to better define the bounds of his own society and of his own cultural self. One is struck by the degree to which it is difficult to apply these insights to Syropoulos’ narrative, in which the narrator’s persona seems to be confined within the limits of his own culture.

The problem with extending this reflection to a larger corpus of works is precisely that such a corpus does not seem to exist. Even if the texts studied by Galatariotou add to the size of this corpus, when all is said and done, one has to admit that the Byzantines left behind them a meagre number of travel accounts, at least when measured against comparable Italian narratives<sup>29</sup>.

In his very useful book on Italian accounts of pilgrimages to Palestine in the Middle Ages, Franco Cardini counted at least 100 such published works<sup>30</sup>. To these one has to add unpublished accounts, as well as those describing travels to regions of northern Europe. Given the striking disparity in numbers, a comparison between Byzantine and Italian travel narratives is very difficult to make. For the purposes of this preliminary exercise, three Tuscan travel accounts to the eastern Mediterranean will be juxtaposed to the preceding hypotheses regarding Syropoulos’ Chronicle. All three accounts are well known to students of late medieval (or renaissance) Tuscany; along side many of the dozens referred to by Cardini, they have been subject of often acute analyses. These three sample accounts span a long period, from the late fourteenth to the late fifteenth centuries, all are written in a fluid Tuscan vernacular, each of them exists in a single manuscript (a fact that suggests that none of them was widely circulated), none of the three authors was particularly prominent, although one, Felice di Michele Brancacci, author of an account of his embassy to Alexandria in the early 1420s, was well connected in Florence, a fact that did not prevent (to the contrary, it contributed to) his banishment from the city in 1434. The other two are Lionardo Frescobaldi, who, along side two companions, travelled to Mount Sinai in 1384, and ser Zanobi di Antonio del Lavacchio, a priest who accompanied a Florentine embassy to Egypt in 1488<sup>31</sup>. Each of these travellers set off on his journey for a specific purpose: Frescobaldi, because he wished to visit the Holy lands, although, also, he seems to have been given the task of reporting on military

<sup>28</sup> M. de Certeau, *Montaigne: ‘Des Cannibales’*, in M. de Certeau, *Le lieu de l’autre. Histoire religieuse et mystique*, Paris 2005 (1981).

<sup>29</sup> Galatariotou, *Travel and Perception*.

<sup>30</sup> Cardini, *In Terrasanta*, p. 473-481.

<sup>31</sup> F. Brancacci, *Diario di Felice Brancacci ambasciatore con Carlo Federighi al Cairo per il comune di Firenze (1422)*, ed. D. Castellacci, in «Archivio storico italiano», 41 (1881), p. 157-188, 326-334; Lionardo di N. Frescobaldi, *Viaggio in Terrasanta*, in *Viaggi in Terrasanta*, ed. C. Angelici, Firenze 1944, p. 39-167; Zanobi di Antonio del Lavacchio, *Santo viaggio*, in *Relazione di un viaggio al Soldato [sic!] d’Egitto e in Terra Santa, 1488-1489*, ed. G. Corti, in «Archivio storico italiano», 116 (1958), p. 247-266.

fortifications he observed in his travels; Brancacci had been sent to negotiate a commercial treaty between the Florentine and Mamelouk governments; Zanobi di Antonio was a priest in the retinue of another ambassador, but he was also clearly driven by a desire to undertake a pilgrimage to Palestine and Mount Sinai. The sights which elicited their comments were incidental to their primary missions. Of course, this, also, was the case with Syropoulos.

What, then, can one say about these three accounts, especially if they are read against the grain of the preceding reflections about Syropoulos' Chronicle? Two observations, preliminarily suggested here, may serve as a basis for further reflection.

First, a reader cannot but be struck by the curiosity shown by the three authors, by their interest in noting, often in graphic detail, their impressions of their travels. All three wrote long commentaries about their sea crossings, they described the cities they visited, the people with whom they came in contact, the animals and vegetation they saw, local habits in eating, dressing, and socializing. It is difficult to single out examples, from the dozens contained in each. They bespeak these three men's curiosity, their penchant to write down their observations, their sense of the differentness, even the exotic quality of what they saw. Frescobaldi's cameo portrait of Arab women wearing their burkas, or his description of the Arabs' eating habits<sup>32</sup>; Brancacci's nearly breathless description of an elephant («il quale animale è tanto mirabile e di strana fazione, che non mi dice il cuore di saperne parlare»)<sup>33</sup>; ser Zanobi's descriptions of Rhodes and of Alexandria (with the adjective *incredibile* punctuating his narrative) are typical examples<sup>34</sup>. One could of course imagine that these descriptions conform to a long medieval tradition of *mirabilia*. One could also suspect that they were filtered through their authors' readings of medieval sources, such as, for example, Mandeville. But the baggage of cultural assumptions they carried with them was most evident when they sought explanations for some of their observations, as for example when Frescobaldi explains, in conformity with a long standing tradition, that the pyramids had been the Pharaohs' granaries<sup>35</sup>. And however much the imagination of these authors was coloured by their readings of vulgarisations of Pliny, which were in wide circulation in Florence, their descriptions of strange animals or unknown plants seem to have been directly informed by their observations<sup>36</sup>.

The previous generalization should no doubt be greatly nuanced when one comes to the very substantial portions of their accounts which refer to biblical stories, to the holy sites and the miraculous relics they sought out

<sup>32</sup> Frescobaldi, *Viaggio*, p. 77, 81-82.

<sup>33</sup> Brancacci, *Diario*, p. 178.

<sup>34</sup> *Relazione di un viaggio*, two examples: «e per la terra non si vede se non palle di bonbarde, e intendemo che fùrano colpi 3700; e védesi in molti lati le palle fratte nelle mura: cose incredibili» (p. 253); «ché non si può andare per le vie per la multitude della gente, che è chosa incredibile a credere: e questa è la propria verità» (p. 256).

<sup>35</sup> On the pyramids as granaries, Cardini, *In Terrasanta*, p. 422-423.

<sup>36</sup> On the use of Pliny in Florence, *ibidem*, p. 422, 424, 428.

with impressive persistence. It is here where observation was heavily laced with fantasy, where these travellers drew on their easy familiarity with biblical and Christian texts to enhance their narratives' authenticity, and to root (or frame) them in a context that would be familiar to their readers<sup>37</sup>. All three undertook systematic searches for traces of the Christian past and evidence for the survival of genuine devotion. In their search for a Christian topography, they identified sites, and relics, described rituals, referred to miracles they had read about or more rarely witnessed themselves, spared no detail in describing the hardships they endured on the way to their holy destinations. Historians have often wondered what elements of these descriptions were based on observation, what on mere hearing, what, even, on sheer invention or on the vague recollection of accounts written by others. It is of course important to pursue this question, to understand how their syncretic imaginations were fertilized by readings, memories, observations, and, no doubt, desires; or, if one will, how the transformative power of their imaginations led them to express their experiences in discursive registers that could vacillate between the realistic and the fantastical; how, furthermore, the existence of a tradition, rooted, perhaps not only, in the popularity of Marco Polo's *Milione* had slowly created a literary convention that inspired men such as Brancacci, Frescobaldi, Zanobi and, literally, dozens, perhaps hundreds of others to pick up their writing instruments to describe for others their physical and spiritual adventures<sup>38</sup>.

What matters here, however, is another thought, with which to end this brief essay. One could perhaps suggest that a key to these travellers' persistent curiosity, and their constant effort to extend their imagination toward unfamiliar people, places, and situations was the conviction that, in some inchoate form, authenticity and truth were rooted far from their own *patria*. Their yearning to see, and hear, and touch the physical remains of their culture's founding – Christian – moments led them to seek out ways of returning to the Holy Places, to face endless dangers and adventures, to expose themselves to the whims of fortune and the unpredictable behaviour of peoples they met on their way. Their *nostos* for a spiritual home led to the discovery of people and places – real people and places – that were not only far from their own comfortable homes in central Italy, but, on occasion, also inspired some of them, however tentatively and cautiously, to compare their own familiar environment to the unfamiliar sites and sounds they encountered on the way to their destinations – which were at once spiritual and physical. In short, these men (and the thousands of others who trod the same

<sup>37</sup> Many interesting and useful insights about realism and imagination intermingled in many of these travel accounts: A. Durel, *L'imaginaire des épiques. Italie médiévale, Orient lointain*, Paris 2006.

<sup>38</sup> On syncretic reading habitus of Florentine readers (and writers), useful comments in D. Kent, *Cosimo de' Medici and the Florentine Renaissance. The Patron's Oeuvre*, New Haven 2000, p. 91, and A. Perosa, *Lo zibaldone di Giovanni Rucellai*, in *Giovanni Rucellai ed il suo Zibaldone*, II, *A Florentine Patrician and his Palace*, London 1981, p. 99–152, p. 134.

paths) were driven by an impulse to leave home and hearth to enhance their possibilities for salvation. It seems that their irrepressible curiosities, their drive to see and tell what they saw were not unrelated from their penchant to acknowledge that the world beyond their *patria*'s physical borders contained curious and interesting things. It was this penchant that seems to have been absent from Syropoulos' and many other Greek visitors' observations and memories of the Councils of Ferrara and of Florence.



# ***Impertinent meddlers in state building: an anti-war movement in seventeenth-century Italy***

by Edward Muir

During the desperate waning years of the Thirty Years War, a curious anonymous book appeared with no place of publication and a false date. The title page of *L'Anima di Ferrante Pallavicino* prints 1643 as the date of publication, but the conceit of the book is that the soul of the deceased Ferrante Pallavicino, who was executed in 1644, returns to earth one evening to converse with his old friend, Henrico. All of this subterfuge, which had the soul of Pallavicino return to earth the year before he died, obscured the book's true origins and protected the true author<sup>1</sup>. Toward the end of *L'Anima*, embedded in a long discursive passage, is a remarkable claim for a book published in the midst of the Counter Reformation: the Christian religion is a thing of fear, «indeed even the fear of a madman». The only palliative for the madness of religion is to recognize that «men have the ability to establish laws over God» («gli Huomini abbiano facoltà di componere Leggi sopra Dio»)<sup>2</sup>. That is indeed a radical claim. If humans can impose laws on God, then what is God? Does he have any moral authority, let alone power over human events? Would there be any reason for there to be a God, except as the deists assert, as the Prime Mover of the Universe? And why would the total rejection of divine law be proposed in the 1640s? I want to suggest that disgust with the prolonged wars of the seventeenth century, especially with the role of the papacy in those wars, corroded not just acceptance of the authority of the Church but undermined the very conception of war as a necessary evil, a necessary manifestation of the then new fangled idea of *ragione di stato*. During the seventeenth century anti-war arguments and religious skepticism went hand in glove.

<sup>1</sup> [Giovanni Francesco Loredan ?], *L'Anima di Ferrante Pallavicino*, Villafranca [Amsterdam or Geneva ?] 1643.

<sup>2</sup> *Ibidem*, p. 81. In a previous work, *L'Adamo*, Venice 1650, Loredan seems to raise the question that the death of the soul is implied by Adam's Fall, that the mortality of the body is matched by the mortality of the soul. To him the death of the soul was the direct consequence of the Fall. *L'Adamo* has usually attracted scholars' attention because of its overt misogyny, which Arcangela Tarabotti attacked, but I am suggesting in light of my reading of *L'Anima* that Loredan rejects the immortality of the soul, albeit very indirectly, in both texts.

One of the bits of trivia I memorized long ago for my PhD exams in European history was the fact that there were during the entire seventeenth century only four years of peace. The most famous of all these wars is the Thirty Years War, which was mostly fought in Germany but was in one respect merely the final phase of the Eighty Years War between Spain and the Protestant powers in the Netherlands. These were but a prelude to later conflicts including the maritime Anglo-Dutch wars that turned New Amsterdam into New York and the continental wars of Louis XIV. In these conflicts religious intolerance cohabited uneasily with *ragione dello stato*, the first a century-old legacy of the Reformation and its wars of religion, the second a product of the new ideology of absolutism. In contrast, the Italian wars of the period – the War of Mantuan Succession (1628-1631) and the Wars of Castro (1641-1644 and 1649) – were primarily dynastic and territorial struggles, not ideological confrontations. As a result in Italy it became much harder than in northern Europe to imagine that God was on your side.

In contrast to the early sixteenth century when the great European wars were mostly fought in Italy and the Italian states were struggling for their very survival, by the seventeenth Italy was a side-show in European conflicts, the Italian states themselves minor players in their own affairs. Virtually the entire peninsula submitted to Spanish hegemony. There were Spanish viceroys in Milan and Naples. The only large states surviving with their independence intact were Savoy and the Republic of Venice. In the balance were a few small states, such as Mantua.

In 1627 the male line of the Gonzaga dynasty, which ruled the Duchy of Mantua and the Marquisate of Montferrat, died out after the last three Gonzaga dukes, all brothers, failed in the conjugal bed. The issue of Mantuan succession opened the way for a confrontation between France and Spain over the control of northern Italy because of the strategic positions of the Gonzaga territories. Spain needed to protect Milan, but Savoy wanted the fortress of Casale in Montferrat to defend the upper Po. Consisting of an intermittent Spanish siege of Casale and the brutal imperial sack of Mantua, the War of Mantuan Succession soon petered out because Spain, France, and the Empire were all heavily committed elsewhere and because a soldier-killing plague, described by Manzoni in *I promessi sposi*, struck Milan and Mantua. A sideline to the war, however, was the proposed Venetian Enterprise, the plan seriously considered in Spain to attack Venice after Mantuan succession was settled. Nothing came of the Venetian Enterprise, but the secret plan came out, souring Venice's relations with Spain<sup>3</sup>.

Fast on the heels of the War of Mantuan Succession was the notorious aggression of the Barberini Pope Urban VIII (the very pope who had silenced Galileo) and the Pamphili Pope Innocent X against Odoardo Farnese, Duke of Parma and Piacenza, aggression that provoked the Wars of

<sup>3</sup> J.H. Elliott, *The Count-Duke of Olivares: The Statesman in an Age of Decline*, New Haven 1986, p. 55-61, 337-346, 375-406.



Castro. An otherwise minor episode, the Wars of Castro stimulated anti-war sentiments more than any other violent conflict in seventeenth-century Italy. A good measure of those sentiments might be Girolamo Brusoni's *Delle historie memorabili, contiene le Guerre d'Italia de' nostri tempi* (Venice, 1656). In his dedication Brusoni notes the book is not a celebration of martial valor but a condemnation of the horrors of war: «per temperare all'Italia con sì fausta memoria la funesta ricordanza di tanti mali, quanti per gli ultimi venti anni addietro il cieco furor della Guerra ne' nostri popoli ha derivato»<sup>4</sup>. Odoardo Farnese held the feudal enclave of Castro adjacent to the Papal States, and after he quarreled with the pope's nephews during a visit to Rome in 1639, Urban VIII prohibited the sale in Rome of grain from Castro, depriving Odoardo of a significant source of income and preventing him from repaying his Roman creditors. Speaking of the nephews, Brusoni reported that,

A causa di sue pretensioni, o malgradite, o sprezzate da loro; né minore era il desiderio, che nudrivano i Barberini di mortificare il medesimo Principe, e per lo disprezzo, che aveva egli mostrato di loro... Onde giunto quel tempo, che aveva la Provvidenza Divina destinato a correzione della superbia de' Grandi; e a castigo della licenza, e del lusso de' Popoli, permise, che questi segreti odii, e disgusti svaporassero in pubblico incendio di turbolenze, e di guerre<sup>5</sup>.

In the ensuing war, Venice, Modena, and Tuscany backed Parma while Rome's requests for Spanish aid went unanswered. One of the horrors of the little war was the sack of Codigoro on the lower Po, which was contested between Venice and the papal armies. «Solita brutalità della guerra, quasi che sia una spezie di Religione il non conoscere Religione, alcuna negli eccessi della licenza militari; e che non si possano pagare alla divinità i beneficii, che ne ricevono dello spirito, e della vita fuorche a pezzo di bestemmie, e di sacrilegii»<sup>6</sup>. The final result of the war was a humiliating defeat for the pope and his nephews who had infuriated the Roman populace by pillaging antique monuments («Quod non fecerunt Barbari, fecerunt Barbarini») and by littering the city with the Barberini bee emblem. A pasquinade from the period depicted a weeping Catholic emperor, defeated by the Swedish Protestant King Gustavus Adolphus and asking the Church for assistance. The pasquinade had the Church reply, «Non ho niente per darti mio difensore, perché le mosche [i.e. the Barberini bees] mi succhiano fino le viscere»<sup>7</sup>.

Pope Urban died a few months after the peace, but war over Castro resumed in 1649 when Odoardo's son, Duke Ranuccio II, reneged on his father's promise to repay the Roman creditors and to accept Pope Innocent X's appointed bishop of Castro. When the bishop was murdered on the road

<sup>4</sup> Girolamo Brusoni, *Delle historie memorabili, contiene le Guerre d'Italia de' nostri tempi*, Venezia 1656, n.p., dedication.

<sup>5</sup> Brusoni, *Delle historie memorabili*, p. 248.

<sup>6</sup> *Ibidem*, p. 265.

<sup>7</sup> Gregorio Leti, *Nipotismo di Roma*, Amsterdam 1667 [?], p. 224-227.

to Castro the pope retaliated by sending troops to Castro who completely destroyed the town. It has never been rebuilt.

The Wars of Castro provoked an anti-war movement among writers in Venice. This anti-war movement had two strains. The first consisted of dyspeptic arguments about the princely rights of the Duke of Parma over his feudal enclave of Castro. The seventeenth-century debate about the status of Castro, however, has the ephemeral character of journalism. The second strain contributed to a deeper anti-war argument. Some writers challenged the very foundations for contemporary wars, especially the claim that the venal ambitions of the papacy enjoyed divine sanction. The specific target of this argument was easy to criticize but dangerous to rouse, the Barberini family of Pope Urban VIII. By unmasking the pope's violation of the rights of legitimate princes, the anti-war writers crystallized the persistent anti-clerical traditions of Italian culture into an ideology that divorced *ragione di stato* from God's grace. For an influential stratum of Italian intellectuals the papacy as an institution, not just individual popes, was part of the problem rather than the solution, and these anti-clerics, several of whom were themselves clerics, argued their case without any overt inclination toward Protestantism. They relied on the pre-Tridentine, fifteenth-century Catholic theories of conciliarism rather than on the more contemporary heresies. It is hard to give these seventeenth-century Italian intellectuals a label. They were certainly not liberals in the English sense. Some scholars have considered them proto-Enlightenment thinkers, but they were certainly indebted to Renaissance humanism. Their enemies called them libertines. "Skeptics" might be the best term because their prevailing characteristic was doubt. They did not articulate an alternative society so much as unmask the dark side of their own.

These thinkers were not especially original, which, in fact, accounts for some of their popular appeal. They built upon the traditions of Italian skepticism that included writers such as Aretino, Ochino, Poggio, Ficino, Poliziano, Pomponazzi, Cremonini, Galileo, and, of course, Machiavelli<sup>8</sup>. As the inclusion of Machiavelli on this list indicates, Italian skepticism was not especially pacifist. Italian pacifism had other roots: in the Spiritual Franciscans and the letters of St. Catherine of Siena. The anti-war writers of the seventeenth century, however, thought in a different direction. Borrowing from the essay form of Montaigne, these writers addressed what was rapidly becoming a European republic of letters in which the lingua franca was no longer Latin and not yet French but Italian. The proto-journalism of the Venetian printing industry made it possible to spread in cheap print and good Tuscan a flood of words that promoted doubt in established institutions and authorities<sup>9</sup>. In that, I submit, lies the significance of the seventeenth-century anti-war

<sup>8</sup> N. Davidson, *Unbelief and Atheism in Italy, 1500-1700*, in *Atheism from the Reformation to the Enlightenment*, ed. by M. Hunter and D. Wootton, Oxford 1992, p. 56.

<sup>9</sup> B. Dooley, *The Social History of Skepticism: Experience and Doubt in Early Modern Culture*, Baltimore 1999.

movement. Neither original nor philosophically sophisticated, these writers were brilliant propagandists and cultural critics, people who undermined authority through satire, novels, and histories.

The city of Venice and its satellite university town of Padua remained a relatively free-thinking island in Catholic, Spanish-dominated Italy. Due to the intermingling of ideas from religious skeptics, Jewish philosophers, and various heterodox foreigners, who constituted what was perhaps the most diverse population in western Europe, Venice was unusually cosmopolitan<sup>10</sup>. Padua was the only university in Italy where Protestants and Jews could actually study along side Catholics despite the Council of Trent's prohibition of non-Catholics taking degrees<sup>11</sup>. The largest nation of students at Padua were the Germans, many of whom were Protestants who voiced an alternative to the Catholic propaganda that prevailed in Spanish Italy during the Thirty Years War.

Venice had the largest publishing industry in Italy and one of the largest in Europe. Venice and Rome signed an agreement in 1596 to enforce the Index of Prohibited Books among Venetian publishers, but if only for commercial reasons the Republic was a reluctant censor, and prohibited books – dangerous stuff like Machiavelli, Luther, and vernacular Bibles – could usually be bought from under the counters of Venetian booksellers. In its official culture the Republic of Venice was certainly orthodox, but Venetian officials were jealous of their prerogatives over the local church, which brought them into direct political conflict with the Counter Reformation papacy<sup>12</sup>. Especially after the epic confrontation between Venice and Rome when Pope Paul V placed the Republic under Interdict (1606-1607), Venetian officials tolerated and sometimes even encouraged rabid anti-papal and anti-Spanish polemics.

The most important intellectual in seventeenth-century Venice was the Servite friar Paolo Sarpi (1552-1623), known throughout Europe for his *History of the Council of Trent* (published pseudonymously in England in 1619). After the imposition of the papal Interdict against Venice in 1606, Sarpi defended in print not just the republican liberty of Venice but the rights of secular princes everywhere against the universalizing claims of the Counter-Reformation papacy. Sarpi's pamphlets led some to compare his attacks on the papacy to those of Luther and to image a new Reformation was in the works. His attacks on the papacy hit home. Two hired assassins stabbed the friar while he was crossing a bridge just outside his convent. The thugs fled to the Papal State and later received a pension from the Spanish

<sup>10</sup> M. Infelise, *Books and Politics in Arcangela Tarabotti's Venice*, in *Arcangela Tarabotti: A Literary Nun in Baroque Venice*, ed. by E.B. Weaver, Ravenna 2006, p. 57.

<sup>11</sup> P.F. Grendler, *The University of Padua 1405-1600: A Success Story*, in *History of Higher Education*, 10 (1990), p. 7-17, 36-37.

<sup>12</sup> P.F. Grendler, *The Roman Inquisition and the Venetian Press, 1540-1605*, Princeton 1977. On local Venetian religion and piety, see E. Muir, *Civic Ritual in Renaissance Venice*, Princeton 1981.

viceroy in Naples, which revealed the hand of those who had hired them. Sarpi survived the attack and produced a series of books that lambasted clerical wealth, the papacy, and Spanish Habsburg ambitions in Italy. Sarpi's survival not just from other potential assassins but from persecution by the Roman Inquisition depended entirely on his Venetian patrons. One of the signs of Venice's continued resistance to the Counter Reformation, even after the conclusion of the Interdict, was the refusal to allow members of the Society of Jesus to return to Venetian territories.

Sarpi never published his most radical ideas, which were too far from orthodoxy even for his Venetian patrons, but relegated them to his private notebooks, his *Pensieri*. Based on his analysis of the *Pensieri*, David Wootton has argued that Sarpi not only held the Counter-Reformation papacy in contempt but rejected Christianity itself. Despite his public pronouncements in which he contrasted papal behavior with true Christianity, the rhetorical ploy of most anti-clerics, Sarpi was in private thoroughly irreligious. Sarpi was willing to contemplate the creation of a purely secular society, a state composed of moral atheists. For Sarpi religion and politics must be kept entirely separate, and the responsibilities of a citizen or subject need not have anything to do with Christian morality, which he saw as corrosive of true morality. Wootton concludes, «Sarpi's true originality, however, lies not in his rejection of Christianity, nor even in his willingness to conceive of a natural order without God. It lies in his conviction that a society of moral atheists need be no worse than a society of Christians. It was this conviction which made it possible, for the first time, for an unbeliever to pursue different social and political objectives from those pursued by believers»<sup>13</sup>. Sarpi's revolutionary conviction was the necessary first step for an ethically grounded anti-war movement that did not borrow from Christian traditions of pacificism<sup>14</sup>. As I hope to show, some of Sarpi's followers made an additional step by asserting not just that a society of moral atheists need be no worse than a society of Christians but that it might be better, and the evidence for such a claim was the culpability of Christian society and especially the papacy for the endemic wars of the seventeenth century.

In Venice the institutions for preserving and extending Sarpi's ideas were the aristocratic academies, most importantly in the Accademia degli Incogniti. For nearly thirty years from its founding in 1630, an international group of aristocrats and clerics gathered in Venice under the auspices of the Incogniti where they engaged in conversations about all possible topics. The freedom and very survival of the Incogniti depended on their founder and patron, Giovanni Francesco Loredan (1607-1661), a member of one of Venice's most prominent patrician families and a successful politician who could guarantee the security of the other Incogniti. Even so, the Incogniti did

<sup>13</sup> D. Wootton, *Paolo Sarpi: Between Renaissance and Enlightenment*, Cambridge 1983, p. 133-134.

<sup>14</sup> *Ibidem*, p. 120-124.

their best to remain unknown by hiding behind pseudonyms, anonymous publications, false places of publication, and elaborate metaphorical language<sup>15</sup>. The absence of the Jesuits for a half century after the 1606-1607 Interdict, an anti-papal political culture theorized by Sarpi, and the Accademia degli Incogniti made possible in Venice the formation of the most prominent community of skeptics before the Enlightenment.

Some of the books of the Incogniti, especially those by Ferrante Pallavicino, criticized any form of religion and the hypocrisy of the war mongers. More than any other figure Pallavicino represented the extremes to which anti-papal and anti-war rhetoric could reach during the seventeenth century. Born in Piacenza in 1615, which made him a subject of the embattled Duke of Parma, Pallavicino took vows as a Lateran canon at age sixteen before he had the chance to taste, as one of his admirer's put it, the carnal delights of the world, but he did not waste much time in making up for that mistake<sup>16</sup>. On a pretense he obtained leave from his monastic superior and fled to Venice where he took up with a series of prostitutes and began his career as a writer. Without money of his own he survived from the income from his extremely popular books and by working as Loredan's private secretary. His *novelle*, histories, and essays were in such demand in the late 1630s that they were sold at a high mark-up and were translated into English and French. In Italy an eager public awaited each of his new books to see what outrageous things Pallavicino would write about the Barberini pope and his nephews or the Jesuits. He came to be known as the «scourge of the Barberini»<sup>17</sup>. By his own account Pallavicino was a satirist, not a theologian or a philosopher, but satirists since Erasmus have probably altered public opinions more quickly and more broadly than the serious thinkers<sup>18</sup>.

In Pallavicino's *Il divorzio celeste*, the first volume of an anticipated trilogy dedicated «al Scropoloso Cristiano», Jesus asks God the Father for permission to divorce his bride, the Roman Church, because of her intolerable adulteries. After sending St. Paul down to earth to investigate, God gives Jesus his permission for the divorce. The Roman Church was not redeemable. The centerpiece of the case against the Roman Church was the Barberini role in the first War of Castro. In one passage St. Paul, disguised in the habit of a monk, interviews the Duke of Parma who excoriates Urban

<sup>15</sup> Girolamo Brusoni [Iacopo Gaddi], *Le Glorie degl'Incogniti o vero gli huomini illustri dell'Accademia de' signori Incogniti di Venetia*, Venezia 1647. On the Unknowns see E. Muir, *Culture Wars of the Late Renaissance: Skeptics, Libertines, and Opera*, Cambridge (Mass.) 2007, and M. Miato, *L'Accademia degli Incogniti di Giovan Francesco Loredan, Venezia (1630-1661)*, Firenze 1998.

<sup>16</sup> [Loredan], *L'Anima di Ferrante Pallavicino*, p. 92.

<sup>17</sup> R. Urbinati, *Ferrante Pallavicino: il Flagello dei Barberini*, Roma 2004. For bibliography of works by and about Pallavicino, L. Coci, *Bibliografia di Ferrante Pallavicino*, in «Studi seicenteschi», 24 (1983), p. 221-306.

<sup>18</sup> [Ferrante Pallavicino], *La retorica delle puttane composta conforme li precetti di Cipriano. Dedicata alla università delle cortegiane più celebri*, Cambrai 1642. See Muir, *Culture Wars*, p. 90-94.

VIII: «Gran crudeltà di Pastore, che scorticando le pecorelle vive, non vuole alimento, che sia loro lecito l'affetto naturale del risentimento, e del dolore»<sup>19</sup>. Urban pretends to be the venerated successor of Peter, but unlike Peter Urban closed his ears to the words of Christ who told Peter to put his sword back in its scabbard. Christ instituted a reign of peace. Urban instituted a reign of war. Paul went on to Venice where he discovered a treatise on the Republic of Venice, which declared that among all cities the Venetians were the freest of superstitious credulity. After reading this treatise, St. Paul inquired of a Venetian patrician how it could be that a secular state could exercise authority over the Church as did Venice by regulating benefices. The Venetian reminded the saint that Christ declared that His kingdom is not of this world, which he left to the management of the secular princes and republics such as Venice's.

When St. Paul arrived in Rome his hitherto secret identity was revealed. Pope Urban sent a courtier to invite the saint to the Barberini palace, but Paul demurred. Through a messenger Urban replied that if Paul would not honor him with a visit, then he could at least do the pope a favor. Urban wanted St. Paul to revise the Scriptures because it is not fitting that Paul in his Epistles should contradict the preferences of St. Peter's successor. In particular he wanted dropped from the Bible, «*omnis anima potestatibus sublimioribus subdita fit*» («Let every Soul be subject to the hither powers») and «*diacones habeat non turpe lucrum facientes*» («let them have deacons not given to base lucre»), especially the latter because Urban wanted to enrich the cardinal nephews. Paul managed to escape Rome before Urban could force him to make the scriptural modifications. In his rush to leave, however, Paul left his sword behind, which Urban took for himself saying «*Horsù già che la penna di Paulo ricusa di servirmi, mi servirà la sua Spada... Questa questa vi sforzerà, o Principi ad inchinarvi a' miei piedi qualunque io mi sia. Questa, questa conserverà Castro, sogiogherà Parma, e mostrerà non esser necessarij altri pretesti di ragione dove può trionfar il filo d'una taliente Spada*»<sup>20</sup>. Paul wanted to go back to get his sword but thought it too dangerous and thus wrote an open letter to the Italian princes hoping that they would wrest the sword back from the pope's hands. Pallavicino's biographer attributed his subsequent problems to *Il divortio celeste*, which was his most impious and blasphemous attack on the Roman Church<sup>21</sup>.

The *Baccinata* becomes even more explicit in its direct assault on the Barberini papacy. It opens with an allusion to the three bees on the Barberini heraldic emblem. Bees, Pallavicino writes, naturally hide in cadavers or in cattle droppings, and the Barberini bees have been sent from their filthy hive into the field of combat, swarming and stinging as they went. During the War of

<sup>19</sup> [Ferrante Pallavicino], *Divortio celeste, cagionato dalle dissolutezze della Sposa Romana, et consacrato alla semplicità de' Scropolosi Christiani*, Ingolstadt 1643, p. 31.

<sup>20</sup> Pallavicino, *Divortio celeste*, p. 119, 122-123.

<sup>21</sup> Girolamo Brusoni, *Vita di Ferrante Pallavicino*, Venezia 1655, p. 19-23.

Castro the Barberini changed Christ's promise, *beati mites* («blessed are the meek»), to *beati milites* («blessed are the warriors»)<sup>22</sup>. Pallavicino imagined a solution to the Barberini tyranny. Like their illustrious ancestor, Emperor Charles V, the Habsburgs should sack Rome and imprison the pope. «When all the Christian princes have been excommunicated for helping Parma, it will be necessary to call a Council to determine the sentence against his Holiness... The Church represented in the totality of the Councils is the true bride of Christ, who granted government to the popes, who are, moreover, the inferiors and subjects to her [*i.e.* the Councils] as to a mistress»<sup>23</sup>. Once Urban is deposed, Pallavicino concludes, «accrescerà il riso commune promosso in lui dalle coglionerie de' Barberini»<sup>24</sup>. Pallavicino's solution is a practical appeal to the conciliar tradition within the Church. However, there are echoes of Sarpi in the formulation because by repudiating the papal tyranny of the Council of Trent a new council would manifest the absolutism of the secular states. Pallavicino managed to slip in a deeply subversive idea: the Church should be subject to control by princes who would become the guardians of morality, a formulation not far from Sarpi's notion of a society of moral atheists.

The third of Pallavicino's anti-Barberini, anti-Spanish books combined satire with serious theological speculation. *Il corriero svaligiato* presents itself disingenuously as a joke, which readers should not take as truth. The only motive for the book, he writes, is to illustrate virtue<sup>25</sup>. Pallavicino's device in the *novella* was to have four courtiers read and comment on letters that their prince had ordered stolen from a postal courier. Some of the letters are straightforward satire. A Milanese man requests the favor of being made the hangman of Rome where he knows there is lots of work. A prostitute seeks a position in Rome to practice her profession where she knows the demand is high. She would prefer to "work under" those who wear the purple habit or the papal nephews, and if necessary she can masquerade as a man since some customers prefer that<sup>26</sup>. Other letters are serious political commentaries. In a letter supposedly from the Viceroy of Milan is a discussion about tricking the princes of Italy. The King of Spain mortified the Duke of Parma, enervated the Marquis of Mantua, put his foot in the neck of the princes of Savoy, struck a deal with the Grand Dukes of Tuscany, holds his claws over Genoa and Lucca, and has a plan to manipulate the Republic of Venice to serve his interests. Not only has the pope become a partisan in these Italian fights, but the Spanish have put him in chains to serve their interests<sup>27</sup>.

<sup>22</sup> G. Demaria, *La Guerra di Castro e la spedizione de' presidii (1639-1649)*, in «Miscellanea di storia italiana», 4 (1898), p. 191-256.

<sup>23</sup> [Ferrante Pallavicino], *Baccinata overo Battarella per le Api Barberine. In occasione della mossa delle armi di N. S. Papa Urbano ottavo contro Parma*, Geneva [?] 1644, p. 69-70.

<sup>24</sup> Pallavicino, *Baccinata*, p. 81.

<sup>25</sup> Ginifaccio Spironicini [Ferrante Pallavicino], *Il corriero svaligiato*, Villafranca [Amsterdam?] 1644, p. 7.

<sup>26</sup> [Pallavicino], *Il corriero svaligiato*, p. 52.

<sup>27</sup> *Ibidem*, p. 146.

In his *Dialogo molto curioso*, Pallavicino has his interlocutors ask the question whether the current wars were just or unjust. The two soldiers of the dialogue debate the issue. Antonio Barbarini da Piacenza argues that the secular princes have fought the war with moderation, but the pope has been unjust. His opponent, Geminiano Propapali (the “pro-papalist”) da Modena, suggests this view is heresy. Antonio answers that when a temporal prince goes to war without justice he only violates Justice but when a pope does his violates the laws of Christ. In an elaborate analysis of contemporary events, Antonio insists that Urban is, in fact, the anti-Christ who has ignored Christ’s dictum, «He who lives by the sword dies by the sword»<sup>28</sup>. The book ends with another of Pallavicino’s pasquinades titled, *Il grosso & idioto Pasquino per accomodarsi all’umor di Papa Urbano VIII*. Summarizing the case against Urban and his nephews and calling for the Duke of Parma to avenge his wrongs, the poem works out an elaborate pun on Castro/castration:

[265]

Tu se’ in error, se pur conosci il vero  
A questa volta tu non sei buon Mastro,  
Che per haver, buon huom, il picciol Castro,  
Potresti ignudo far restar San Pietro.

Deh quanto per te meglio era Maffeo,  
Castro lasciar à quel di chi era stato,  
E pria d’ haverne quel Duca spogliato,  
Castrar Francesco Antonio, & Don Tadeo<sup>29</sup> [*i.e.* the Barberini cardinal-nephews].

Pallavicino’s highly personalized satires of high church officials and the Spanish were his undoing. In an act of bravado Pallavicino dedicated the *Baccinata* to one of his most ardent enemies, Monsignor Francesco Vitelli, the papal *nuntio* in Venice. In his dedication he punned on Vitelli’s name, pointing out that it meant “calf” (*vitello*), which demonstrates his bovine, animal-like nature<sup>30</sup>. When *Il corriere svaligiato* appeared, Vitelli demanded that Venetian authorities arrest Pallavicino. After six months in Venetian prisons Giovanni Francesco Loredan engineered his friend’s release, but Pallavicino now lived a precarious existence in Venice. He kept busy writing scurrilous books, but in the end his own ambition, like Galileo’s before him, lured the satirist from the safety of the republic. A secret agent for the papacy promised Pallavicino that Cardinal Richelieu would hire him as official historian. Pallavicino followed his betrayer right to the gates of papal Avignon where he was imprisoned, tried for *lèse majesté* against the pope, convicted and executed by decapitation at age twenty eight. His capital crime

<sup>28</sup> Ferrante Pallavicino, *Dialogo molto curioso e degno, tra due gentiluomini Acanzi, cioè soldati volontari dell’ Altezze Serenissime di Modona e Parma sopra la guerra, che detti principi fanno contra il Papa. In cui, con ogni verità, toccansi le cose di detta guerra. Su la fine leggesi anco un breve discorso fatto da Pasquino a Papa Urbano VIII*, in Ferrante Pallavicino, *Opere scelte*, Villafranca [Amsterdam?] 1673, p. 249-252.

<sup>29</sup> Pallavicino, *Dialogo molto curioso*, p. 265-266.

<sup>30</sup> [Pallavicino], *Baccinata*, p. 3.



was not heresy but his refusal to acknowledge the pope's universal sovereign power, the very claim that had enraged Pallavicino and his Venetian friends the most.

Pallavicino's death made him even more of a martyr in the cause of skepticism than his older contemporary Galileo, but the death made his colleagues among the Incogniti more cautious than had Galileo's silencing<sup>31</sup>. Loredan himself acknowledged that Pallavicino had been imprudent to satirize the Barberini and recommended to his colleagues that they should devote themselves to praising living princes and save their satire for dead ones<sup>32</sup>. However, soon after Pallavicino's death someone, probably Loredan himself, staged an elaborate campaign to advance the martyr's case against the Church. *L'Anima di Ferrante Pallavicino*, the book mentioned at the beginning of this paper, was the most virulent attack on the Church to come from the circle of the Incogniti.

The soul of Pallavicino and his old friend Henrico feed off each another's skepticism, progressively making ever more radical attacks on Christianity, as might happen in a real conversation between two like-minded friends. There are clues that the author was Loredan himself, who had once used the Anglicized pseudonym, Henrico Gible. They talk about how the scandals of the Curia have encouraged infidels and heretics to see the Christian religion as superstition. Echoing Luther's complaint from a century before, they accuse Pope Urban VIII of selling indulgences for personal profit: indulgences are more like poison than medicine because they do not take away sin but lead sinners to increase their guilt. In short, they conclude, the Protestants have good reasons to reject the papacy<sup>33</sup>. The abuses of Rome have become so bad that Pallavicino's soul reports that not a single pope has been saved since Sixtus V, the reform-minded pope who loathed the Jesuits, limited the size of the college of Cardinals, but died in 1590 more than a half century before. That placed the intervening eight popes in Hell<sup>34</sup>.

Pallavicino and Henrico move on to discuss the Last Judgment. Pallavicino argues that to condemn many souls to eternal punishment would be to contradict God's mercy. They both agree that all souls in possession of reason should be saved. If only a few are saved then the Incarnation of the Word would be useless and without infinite value. Infinite mercy would not leave room for anyone to be damned unless he or she lost humanity through the loss of reason. They argue that men do not sin with the intention of offending God but to satisfy their appetites. They are not made any less guilty by punishment, which is incompatible with the infinite mercy of God<sup>35</sup>. It is at this place in the text that the author states that the Christian religion is a

<sup>31</sup> Muir, *Culture Wars*, p. 111-148.

<sup>32</sup> *Ibidem*, p. 98-99.

<sup>33</sup> Loredan, *L'Anima*, p. 52-53.

<sup>34</sup> *Ibidem*, p. 65.

<sup>35</sup> *Ibidem*, p. 80.

thing of fear, «indeed even the fear of a madman», and concludes with the radical claim that «men have the ability to establish laws over God» («quasi che gli Huomini abbiano facoltà di componere Leggi sopra Dio»)<sup>36</sup>.

Pallavicino's soul, speaking from the beyond in the conceit of the book, has taken the Christian promise of divine salvation and turned it on its head. The whole scheme, not just of Church imposed penalties but of the divine judgment itself, contradicts the Christian claims of God's infinite mercy. As a result the author, whoever he was, has voiced in print what Paolo Sarpi only dared express in the privacy of his notebooks. Morality, especially morality in war, does not require religion. Morality does not even require God. Human laws can guarantee society. Unbelief has become a higher ethical position than belief itself.

Recognizing the evil of war is easy. What is more difficult is to unravel the elaborate political and theological attempts to make war a *necessary* evil. That unraveling process involves an analysis of the immediate conditions of *ragione di stato* to create an argument that criticizes the folly of some wars but accepts the necessity of others. But the process also involves a re-evaluation of the ethical foundations of the state, the very process that took place in seventeenth-century Italy by writers such as Paolo Sarpi, Ferrante Pallavicino, Girolamo Brusoni, and Giovan Francesco Loredan. An anti-war movement is not the same as pacificism, which rejects the principle that the state has the exclusive right to employ force to defend its vital interests. An anti-war movement is, and in the seventeenth century was, more subtle because it necessarily involves a deconstruction of the ethical foundations of a specific state's actions in a specific situation. It can be a political exercise but at its core is an ethical enterprise, and as the seventeenth-century Italian skeptics recognized the most precious gift the ethical person can give to society is to doubt.

<sup>36</sup> *Ibidem*, p. 81.

## ***The medieval Italian city and the “civilizing process”***

by John M. Najemy

Norbert Elias's famous thesis concerning the “civilizing process” attributes the social disciplining of European elites chiefly to the environment and influence of early modern royal and princely courts, which, so he believed, functioned as schools of good manners within the political framework of centralizing and absolutist states<sup>1</sup>. Both parts of Elias's construct have been considered problematic: “civilizing”, which implies that Europe, since the sixteenth century, became more civilized than medieval Europe had been, with the further implication that other parts of the world remain less civilized even now; and “process”, which suggests that advances in European civility were linear and cumulative<sup>2</sup>. It is surely one of the great ironies of modern scholarship that Elias's grand vision of the “civilizing process” was published on the eve (1939) of the most horrific demonstration of the fragility and superficiality of European civility. Perhaps the irony was intended, since Elias, a member of the Jewish Youth Movement in his school days<sup>3</sup>, could have had few illusions about the European fascisms, particularly Nazism, of the 1930s.

There were of course major changes in the behavioral codes of Europe's upper classes. But was it only – or even chiefly – in the early modern princely courts that Europe's elite classes learned self-restraint and internalized the imperatives of moderation, decorum, and civility? Some historians have relocated the beginnings of the “civilizing process” to the medieval period. Dilwyn Knox, for example, has argued that «the origins of European civility» (to quote from the title of one of his essays) lay in monastic codes of conduct that found influential expression as early as the twelfth century, particularly in Hugh of St. Victor's *De institutione novitiorum*. The famous conduct books of the Renaissance, Knox claims, were a «secular adaptation» of

<sup>1</sup> Norbert Elias, *The Civilizing Process*, transl. E. Jephcott, ed. by E. Dunning, J. Goudsblom, and S. Menell, Oxford 2000.

<sup>2</sup> For an excellent critique of Elias from a medievalist perspective, see B.H. Rosenwein, *Worrying about Emotions in History*, in «The American Historical Review», 107 (2002), pp. 821-845.

<sup>3</sup> R. Kilminster, *Norbert Elias: Post-philosophical Sociology*, London and New York 2007, pp. 10-13.

monastic and clerical *disciplina*<sup>4</sup>. Other historians take the “civilizing process” back to the French literature of courtly love, and Stephen Jaeger finds its origins even earlier in the Ottonian court of the tenth and eleventh centuries<sup>5</sup>. Studies focusing on northern Europe, however, have tended to neglect another, and perhaps more enduring, source of social discipline, namely, the medieval city, particularly the cities of north-central Italy<sup>6</sup>. It was not, after all, the monasteries but the cities that most urgently confronted, and at least partly achieved, the task of civilizing undisciplined upper classes. To be sure, echoes of religious *disciplina* and quotations from Hugh of St. Victor can be found in the non-clerical conduct texts that came from the medieval Italian cities. But these traces of monastic and courtly discipline provided occasional support for a vision of civility that was chiefly lay and civic and was buttressed by classical texts whose relevance to this urban culture was expanding in both the educational and political spheres. Its significant use of biblical lore was drawn less from monastic sources than directly from the Bible, particularly *Proverbs* and *Ecclesiasticus*, the latter itself a conduct book advising readers how to act in the world. The imposition of restraint and codes of behavior on Europe’s undisciplined elites began in the cities of north-central Italy. It was here, for the first time in European history, that non-noble classes challenged the power of knightly and feudal elites, slowly and sporadically, but ultimately to great effect, by defining, codifying, and legislating standards of behavior that modified the character of the aristocratic classes. Not the courts, not the monasteries, but the city-states – the self-governing communes – were the laboratories in which rules of conduct aimed at reining in the elite classes were crafted and applied, in law as well as in literature.

Unlike early modern conduct books, which came mainly from the elites themselves and, in texts like Castiglione’s *Libro del Cortegiano*, reflect idealized, but also conflicted, perceptions of the courts<sup>7</sup>, medieval conduct books

<sup>4</sup> D. Knox, *Disciplina: The Monastic and Clerical Origins of European Civility*, in *Renaissance Society and Culture: Essays in Honor of Eugene F. Rice, Jr.*, ed. by J. Monfasani and R.G. Musto, New York 1991, pp. 107-135.

<sup>5</sup> C.S. Jaeger, *The Origins of Courtliness: Civilizing Trends and the Formation of Courtly Ideals*, Philadelphia 1985; also Jaeger, *The Envy of Angels: Cathedral Schools and Social Ideals in Medieval Europe, 950-1200*, Philadelphia 1994.

<sup>6</sup> For a contribution that highlights the role of the cities, see D. Romagnoli, *Cortesia nella città: un modello complesso. Note sull’etica medievale delle buone maniere*, in *La città e la corte. Buone e cattive maniere tra Medioevo ed Età Moderna*, ed. by D. Romagnoli, Milano 1991, pp. 21-70; also by D. Romagnoli, *Parlare a tempo e luogo: galatei prima del Galateo*, in *Educare il corpo, educare la parola nella trattatistica del Rinascimento*, ed. by G. Patrizi, A. Quondam, Roma 1998, pp. 43-63. A. Scaglione combines Jaeger’s approach with attention to Italy in *Knights at Court: Courtliness, Chivalry, and Courtesy from Ottonian Germany to the Italian Renaissance*, Berkeley 1991; the urban environment serves as background to part 4, “The Italian Scene”, pp. 167-276.

<sup>7</sup> See J. Najemy, *Arms and Letters: The Crisis of Courtly Culture in the Wars of Italy*, in *Italy and the European Powers: The Impact of War, 1500-1530*, ed. by C. Shaw, Leiden 2006, pp. 207-238.

mostly emerged from the non-aristocratic class that contemporaries called the *popolo*, particularly from notaries, judges, and those “merchant writers” who articulated the values of their urban world. The foundation of their influence was the cities’ burgeoning literacy, a cultural achievement that is not sufficiently recognized. According to Giovanni Villani, eight to ten thousand boys and girls were learning to read in an early fourteenth-century Florentine population variously estimated between 90,000 and 120,000 – numbers that point to a literacy rate among men as high as 70-80 percent and recently confirmed by a study of the declarations of household wealth in the Catasto a century later<sup>8</sup>. A smaller, but still sizeable, percentage of women could also read and write. Notaries and judges brought Roman history, law, literature, rhetoric, and moral philosophy into the culture of thirteenth-century Italy in vernacular translations, commentaries, political treatises, chronicles, city panegyrics, and conduct literature. Some of these works were written in the local vernaculars, and those written in Latin quickly received vernacular translations. Albertano da Brescia wrote in Latin between the 1230s and 1250s, but already between 1268 and 1278 no fewer than three translators rendered all or parts of his works into the vernacular<sup>9</sup>. Brunetto Latini, the central figure in the thirteenth-century Florentine literature of social discipline, wrote his encyclopedic *Tresor* in French while in exile; it too was soon translated into Tuscan (by Bono Giamboni or by Latini himself?). The rapidity with which these writings found their way into the vernacular underscores the appetite for such literature and its appeal to communal society.

Indicative of the centrality of literacy in the culture of the *popolo* is the frequent reiteration by thirteenth-century authors of the importance of reading. Knowledge, Albertano writes in his *Liber consolationis et consilii*, is gained through theory (*doctrina*) and practice (*usus* and *exercitium*), and if one’s studies pertain to knowledge of letters (*literalem scientiam*), «continual reading [*jugi lectione*]», accompanied by extensive reflection and memory training, is essential. He quotes Cassiodorus: «Aegrescit profecto ingenium, nisi jugi lectione reparetur [...] cum humilitate et mansuetudine»; and Hugh of St. Victor: «Bonus lector humilis esse debet et mansuetus et a curis malis et voluptatum illecebris alienus, diligens et sedulus». Writing too is necessary, as Albertano says in his own words (followed by a corroborating passage from Seneca): «Et certe non solum lectione, sed etiam scriptura reparari debet ingenium»<sup>10</sup>. In the next generation, Bonvesin de la Riva, the Milanese grammar teacher and author of the famous panegyric *De magnalibus Mediolani*, wrote several manuals of good conduct, including *De quinqua-*

<sup>8</sup> R. Black, *Literacy in Florence, 1427*, in *Florence and Beyond: Culture, Society and Politics in Renaissance Italy*, ed. by D.S. Peterson with D.E. Bornstein, Toronto 2008, pp. 195-210.

<sup>9</sup> A. Graham, *Who Read Albertanus? Insight from the Manuscript Tradition*, in *Albertano da Brescia. Alle origini del razionalismo economico, dell’umanesimo civile, della grande Europa*, ed. by F. Spinelli, Brescia 1996, pp. 69-82.

<sup>10</sup> *Albertani brixienensis Liber consolationis et consilii*, ed. by T. Sundby, London 1873, pp. 23-26.

*ginta curialitatibus ad mensam, Expositiones Catonis*<sup>11</sup>, and *Vita scholastica*, a poem on proper behavior for students that organizes its recommendations around the «quinque claves sapientiae»<sup>12</sup>: after fear of God and the duty to honor one's teacher, the third key is careful reading, followed by thoughtful questions and the training of memory<sup>13</sup>. In the mid-fourteenth century, the Florentine merchant Paolo da Certaldo began his *Libro di buoni costumi* by impressing these «cinque [...] chiavi della sapienza» on the «lettore che leggi e vuoi imparare gli ammaestramenti di questo libro e degli altri». Third among the five keys is, again, continuous reading:

che tu continuamente legghi molti libri con molto studio, però che leggere continuamente fa 'mparare molte cose; e chi molti libri legge, molte e nuove cose truova, e domandando, molto impara: e però sempre leggi e studia con molta sollecitudine<sup>14</sup>.

The communes accomplished a veritable educational revolution, and the widespread insistence on constant reading shows how deeply embedded the imperatives of literacy were in the *popolo's* culture.

Among the chief topics of the literature of social discipline was speech, understood as the foundation of social interaction and of the city itself, and admonitions concerning its use reveal the civic and political dimension of discipline. Albertano wrote a short treatise on the subject, the *Liber de doctrina dicendi et tacendi*, which became the most popular of his works<sup>15</sup>. It gives instruction in knowing when to speak, how to speak when appropriate, and when to be silent. Adapting a saying attributed to Solomon in *Proverbs* 25.28, Albertano likens the man who cannot control his speech to a defenseless city: «Ait enim Salomon: Sicut urbs patens et sine murorum ambitu, ita vir qui non potest cohibere spiritum suum in loquendo»<sup>16</sup>. Albertano particularly advises against offensive and abusive language because of its potential damage to the “state”:

requiras ne quid iniuriosum vel contumeliosum dicas vel facias [...] Iniurie namque et contumelie tam pessime sunt ut non solum cuilibet singulariter noceant, sed etiam regnum propter ea destructionem et mutationem quandoque patiatur.

Another manuscript includes «cities» in the warning that offensive language can spark political disturbances and overthrow of governments: «ut

<sup>11</sup> Bonvesin de la Riva, *Expositiones Catonis. Saggio di ricostruzione critica*, ed. by C. Beretta, Pisa 2000.

<sup>12</sup> R. Avesani, “Leggesi che cinque sono le chiave della sapienza”, in «Rivista di cultura classica e medioevale», 7 (1965), pp. 62-73.

<sup>13</sup> P.F. Gehl, *A Moral Art: Grammar, Society, and Culture in Trecento Florence*, Ithaca, N.Y. 1993, pp. 193-198; also Romagnoli, *Cortesia nella città*, pp. 58-60.

<sup>14</sup> Paolo da Certaldo, *Libro di buoni costumi*, in *Mercanti scrittori. Ricordi nella Firenze tra Medioevo e Rinascimento*, ed. by V. Branca, Milano 1986, pp. 3-4.

<sup>15</sup> Portions of two *volgarizzamenti* of the work, by Andrea da Grosseto and Soffredi del Grazia, are in *Volgarizzamenti del Due e Trecento*, ed. by C. Segre, Torino 1964, pp. 131-171.

<sup>16</sup> Albertano da Brescia, *Liber de doctrina dicendi et tacendi. La parola del cittadino nell'Italia del Duecento*, ed. by P. Navone, Firenze 1998, p. 6.

non solum cuilibet noceant, sed et etiam civitatibus et regnis, quae propterea disturbance et mutationes patiuntur»<sup>17</sup>. Albertano also warns against «seditious» speech: «requiras ne quid seditiosum dicas, quia nichil est perniciosius in civitate quam seditio». Again, the other manuscript adds a few words that heighten the specific relevance of this advice to cities and citizens, equating «seditio» with «civium divisio»<sup>18</sup>, or factionalism. Whether these words were added by Albertano himself in a revision of an earlier draft, or by copyists who sought to make the urban political context explicit, they underscore how crucial it was thought to be for citizens to internalize rules and standards for tempering speech, especially in a society in which upper-class factionalism was an endemic problem.

Albertano's treatise on speech and silence enjoyed great success. Brunetto Latini summarized and translated most of it in book two, chapters 62-67, of the *Tresor*, quoting the same authorities and counseling the same prudence and moderation<sup>19</sup>. The civic dimension of controlling speech is especially prominent in Latini's *Tesoretto*, the allegorical poem whose second half dramatizes the education of a knight – «un bel cavaleiro» and hence a member of the elite class that prized its knighthoods – by personifications of the virtues. The lessons imparted by the Virtues are in effect a conduct book illustrating rules for how the knight «nel suo mistero / si dovesse portare». Of the twenty Virtues whose admonitions to the knight Brunetto overhears, he reports the recommendations of four. The names of these four – Cortesia (courtesy, or good manners), Larghezza (generosity), Leanza (loyalty, or faith), and Prodezza (prowess) – might suggest idealized values of courtly culture. But in fact they give lessons in moderation that presuppose a civic context. Larghezza is the first to advise the knight about restraint in speech, warning him against gambling, or, if his honor demands it, at least not to let bad luck or losses cause him to lose his temper and say anything offensive: «non dicer villania / né mal motto che sia». Cortesia gives the knight a more extended lesson in speech decorum that may have been borrowed directly from Albertano:

Che nel tuo parlamento / abbi provvedimento. / Non sia troppo parlante, / e pensati  
davante / quello che dir vorrai, / ché non retorna mai / la parola ch'è detta, / sì come  
la saetta / che va e non ritorna. / Chi ha la lingua adorna, / poco senno gli basta / se  
per follia no'l guasta.

Latini sets the knight's speech in a specifically urban and civic setting.

E l' detto sia soave / e guarda non sia grave / in dir ne' reggimenti, / ché non può a le  
genti / far più gravosa noia.

<sup>17</sup> Albertano, *Liber de doctrina dicendi*, p. 16: «civitatis et regnis» in Sundby's edition, as quoted by J.M. Powell, *Albertanus of Brescia: The Pursuit of Happiness in the Early Thirteenth Century*, Philadelphia 1992, p. 65, 72 n. 38.

<sup>18</sup> Albertano, *Liber de doctrina dicendi*, p. 18; Powell, *Albertanus*, p. 65, 72 n. 40: «nihil enim pernicios[ius] in civitate, quam seditio; ubi seditio, ibi civium divisio».

<sup>19</sup> Brunetto Latini, *Tresor*, ed. by P.G. Beltrami, P. Squillacioti, P. Torri and S. Vatteroni, Torino 2007, pp. 466-487.

Speaking «ne' reggimenti» is clearly political speech, perhaps even in communal councils, as implied in the following warning:

non sia inizzatore / né sia redicitore / di quel ch'altra persona / davante a te ragiona; /  
né non usar rampogna / né dire altrui menzogna / né villania d'alcuno.

Cortesias is especially insistent that the knight avoid any public speech that injures others:

Né non sie sì sicuro / che pur un motto duro / ch'altra persona tocca / t'esca fuor de la  
bocca: / ché troppa sicuranza / fa contra buona usanza; / e chi sta lungo via / guardi di  
dir follia<sup>20</sup>.

As Vittore Branca noticed, this last warning evidently was (or became) proverbial, for Paolo da Certaldo echoes and amplifies it in the *Libro di buoni costumi* (333):

Sempre ti guarda, quando se' in casa altrui, di non dire male di quel cotale di cu' è la  
casa. Ancora ti guarda di non dire cosa lungo via o lungo parete d'assi o di sottile muro,  
che tu non voglia che ogni uomo il sappia.

Paolo then paraphrases the line from Latini's *Tesoretto*: «lungo via non dica follia»<sup>21</sup>. Walls and fences – and warnings about ears that might be listening on the other side – imply the thickly built environment of the medieval city. Even then, it seems, walls had big ears, and cities teemed with walls. Whether or not Paolo was aware that he was quoting Latini's *Tesoretto*, he confirms Villani's famous encomium of Latini for his skill in speaking («in bene sapere dire») and for being the «cominciatore e maestro in digrossare i fiorentini, e farli scorti in bene parlare, e in sapere guidare e reggere la nostra repubblica secondo la politica»<sup>22</sup>. The social control of speech recently studied in early modern contexts<sup>23</sup> had its origins in lessons in self-discipline in the thirteenth and fourteenth centuries. Civilizing the knightly class, however, involved more than restraining speech and inculcating good manners. The ultimate objective was to limit its violence and factionalism.

Albertano da Brescia's *Liber consolationis et consilii* is a foundational text in the medieval literature of social discipline<sup>24</sup>. It is well known, at least

<sup>20</sup> Brunetto Latini, *Il Tesoretto*, ed. by M. Ciccuto, Milano 1985, pp. 95-96 (lines 1365-1369), pp. 97-98 (lines 1427-1446), pp. 102-103 (lines 1599-1640).

<sup>21</sup> *Mercanti scrittori*, p. 74.

<sup>22</sup> Giovanni Villani, *Nuova Cronica*, ed. by G. Porta, 3 vols., Parma 1990-1991, book 9, chapter 10, vol. 2, pp. 27-28.

<sup>23</sup> See, for example, E. Horodowich, *Language and Statecraft in Early Modern Venice*, Cambridge 2008.

<sup>24</sup> Useful approaches to the *Liber consolationis et consilii* include J. Powell, *Albertanus*, pp. 74-89; E. Artifoni, *Prudenza del consigliere. L'educazione del cittadino nel Liber consolationis et consilii di Albertano da Brescia (1246)*, in *Consilium. Teorie e pratiche del consigliare nella cultura medievale*, ed. by C. Casagrande, C. Crisciani, S. Vecchio, Firenze 2004, pp. 195-216; O. Nuccio, *I trattati ed i sermoni di Albertano da Brescia: fonti inesplorate dell' "umanesimo economico"*,



by reputation, to medievalists outside Italy because it was, perhaps at one remove, Geoffrey Chaucer’s source for the *Tale of Melibee*. Even if Chaucer used a fourteenth-century French version of Albertano’s dialogue<sup>25</sup>, the narrative of the *Tale of Melibee* is remarkably close to the *Liber consolacionis*. The transmission of the dialogue from Italy to France to England suggests that medieval Italian conduct literature had considerable appeal beyond the Alps.

The dialogue is between Melibeus, «vir potens et dives», and his wife Prudentia, who, after a book-length series of lessons and sermons on the virtues of prudence, persuades him not to exact revenge for the criminal attack of enemies who broke into his house during his absence and assaulted Prudentia and his daughter, severely injuring the latter. Melibeus is beside himself with rage and grief and cries inconsolably. Prudentia’s instruction begins with the control of emotion. Quoting from the twelfth-century comedy *Pamphilus de amore*, she advises Melibeus to allow «modus» – proper measure – and prudence to temper his grief: «Temperet ergo tuum modus et prudentia fletum»<sup>26</sup>. Melibeus acknowledges the wisdom of her advice, but his grief still paralyzes him. So Prudentia advises:

Convoca probatos ac fideles amicos, agnatos et cognatos, et ab eis super praedictis diligenter consilium postula, et secundum illorum consilium te regas<sup>27</sup>.

*Consilium* meant many things, including counsel, advice, wisdom and prudence, but to citizens of the communes Prudentia’s suggestion also clearly alluded to the communal councils, the deliberative assemblies that approved and sometimes debated legislation. Melibeus convenes a «multitudinem hominum copiosam», including the town’s physicians, surgeons, learned advocates («causidici sapientes») and a variety of friends, neighbors, and citizens, explains his desire for revenge, and asks their opinion. The doctors respond that, because their duty is to heal without regard to factional divisions, they are against vendettas<sup>28</sup>. But Melibeus’s neighbors, among them «adulatores quoque sive assentatores», feed his grief and wounded honor, urging him not only to pursue vendetta but indeed to wage war «viriliter» against his enemies. One of the advocates (Albertano’s own profession) rises to say that the matter is difficult and dangerous because of the

in *Albertano da Brescia*, pp. 95-155 (pp. 136-152); A. Zorzi, *La cultura della vendetta nel conflitto politico in età comunale*, in *Le storie e la memoria. In onore di Arnold Esch*, ed. by R. Delle Donne, A. Zorzi, Firenze 2002, pp. 135-170; and J.-C. Maire Vigueur, *Cavaliers et citoyens. Guerre, conflits et société dans l'Italie communale, XII<sup>e</sup>-XIII<sup>e</sup> siècles*, Paris 2003, pp. 316-324.

<sup>25</sup> See J. Burke Severs, *The Source of Chaucer’s Melibeus*, in «PMLA - Publications of the Modern Language Association», 50 (1935), pp. 92-99; C.A. Owen, Jr., *The Tale of Melibee*, in «The Chaucer Review», 7 (1973), pp. 267-280 (p. 268, n. 3). But see also P. Olson, *The Canterbury Tales and the Good Society*, Princeton 1986, pp. 114, 119-120; and Powell, *Albertanus*, p. 7, 15.

<sup>26</sup> Albertano, *Liber consolacionis*, pp. 2-3.

<sup>27</sup> Albertano, *Liber consolacionis*, p. 6.

<sup>28</sup> Albertano, *Liber consolacionis*, p. 7: «non expedit eis de guerra vel vindicta consulere, nec inter aliquos partem capere, quare de vindicta facienda minime tibi consulimus».

proximity, wealth, and power of the opposing factions<sup>29</sup> and that Melibeus should not act rashly. Albertano here presupposes the reader's familiarity with the urban political context in which factions, led by members of wealthy elite families and supported by followers and clients, often divided cities and threw them into civil war. The young men in attendance carry the day with angry, emotional calls for vengeance and war, drowning out the last-minute appeal for calm by a wise elder. Melibeus calls for a vote – the text even mimics the language of legislative procedure in communal councils: «facto inter eos more solito partito»<sup>30</sup> – and gets a majority in favor of his desire for vendetta.

Prudentia intervenes and asks Melibeus to listen. He first responds, even to the suggestion of taking her advice, with traditional misogyny, each point of which she calmly refutes and counters with more reasons why women's counsel should be heard, valued, and implemented. «Si prudenter vis vivere», she intones, «te prudentiam oportet habere»<sup>31</sup>. Melibeus yields – indeed, at every point in the dialogue he at first resists and then yields – and asks his wife to explain what prudence is, the different kinds of prudence, what its effects are, and how it can be acquired. Personifications of the virtues as women were neither new nor unusual, but the striking aspect of this dialogue is that the role of teacher of moderation and discipline is given not just to a woman, but to the wife of a powerful, rich man intent upon violent revenge against his enemies. Albertano thus genders his civilizing project as feminine and makes it emerge from a domestic setting. But the class dimension is no less evident. Although not from a large family, Melibeus belongs to the urban plutocracy and has the financial resources to assemble a faction of friends and supporters. Whereas the doctors and judges advise against vendetta, or at least counsel delay and reflection, the neighbors and young men – «flatterers and sycophants» who constitute Melibeus's *clientela* – pander to his bellicose instincts and instigate him to violence. In ultimately persuading Melibeus to abandon vendetta, Prudentia obstructs his “natural” reactions and neutralizes the faction's emotional response to his appeal for support.

Prudentia's arguments are broadly applicable lessons in moral philosophy, laced with frequent quotations, indeed chains of quotations, from a wide variety of sources including Cicero, Seneca, Martial, Ovid, the *Disticha Catonis*, Cassiodorus, Pietro Alfonsi, Hugh of St. Victor, Roman law, and two books of the Bible: *Proverbs* (“Solomon”) and *Ecclesiasticus* (to which Albertano refers by the name of its author, “Jhesus Sirac”). And these are only the literary sources most often cited. But Prudentia's lessons also speak to the specific context of the Italian cities, addressing in particular the neces-

<sup>29</sup> Albertano, *Liber consolationis*, p. 8: «Arduum etiam est ratione vicinitatis et divitiarum ac potentiae utriusque partis».

<sup>30</sup> Sundby's edition, p. 11, has «facta [...] partita».

<sup>31</sup> Albertano, *Liber consolationis*, p. 19.

sity of curtailing abuses of power typical of the urban elite and strengthening public authority in the punishment of crime and control of violence. She gives ample instruction on *consilium* – whose to seek, whose to avoid, and how to evaluate it – in the course of which its meaning as advice or counsel slides into its institutional sense as a forum of public deliberation, hence also council. Prudentia warns that the perverted emotions of «cupiditas» and «voluptas» must be avoided «in consiliis», for they can cause «patriae prodiones» and «rerum publicarum eversiones»<sup>32</sup>, thus undermining public authority. The 1268 vernacular translation by Andrea da Grosseto highlights still more explicitly this political context and identifies the *res publicae* of the Latin text with the communal governments of the cities: uncontrolled cupidity and desire can cause «tradimenti de le Terre» and precipitate «le soversione de’ Comuni e de le cose del Comune»<sup>33</sup>.

Prudentia preaches civil sociability as essential to both the responsible citizen and the healthy city. She quotes Cassiodorus (*Variae* 1.39): «Illi prudentiores semper sunt habiti, qui multorum hominum conversationibus probantur eruditi»<sup>34</sup>. This may include actual conversations, but the wider meaning is the importance of being familiar with, and skilled in, social mores and relations. Here too, Andrea da Grosseto expands the meaning of Albertano’s Latin, referring to those who have «usato e imparato in custumi di molta gente»<sup>35</sup>. Andrea’s inclination to underscore the civic dimension emerges again when he translates a passage that Albertano quotes from “Solomon” (*Proverbs* 11.14) on the necessity of a «gubernator»: a good navigator, pilot, ruler, or governor. The Vulgate says: «Ubi non est gubernator, populus corruet; salus autem, ubi multa consilia». Andrea changes «gubernator» to «governamento» and writes that where there is no «governamento», the *popolo* goes to ruin and that safety lies in many «consigli», which can be understood as many sources of wise counsel, but also as a multiplicity of councils (of the sort that Prudentia twice advises Melibeus to convene)<sup>36</sup>. Indeed, the point may be that there is no difference, since the best advice comes from councils where many can offer their counsel. Prudentia continues to elide the two senses of *consilium*. She tells Melibeus that he got bad «consilium» from a gathering that should not be called a «consilium» because it was easily manipulated by emotional appeals and lacking in foresight and judgment<sup>37</sup>. He invited too many people: he should have begun with

<sup>32</sup> Albertano, *Liber consolationis*, p. 35.

<sup>33</sup> *Dei trattati morali di Albertano da Brescia: volgarizzamento inedito fatto nel 1268 da Andrea da Grosseto*, ed. by F. Selmi, Bologna 1873, p. 79.

<sup>34</sup> Albertano, *Liber consolationis*, p. 44.

<sup>35</sup> *Trattati morali*, pp. 87–88.

<sup>36</sup> Albertano, *Liber consolationis*, p. 45; *Trattati morali*, p. 88.

<sup>37</sup> Albertano, *Liber consolationis*, p. 64: «consilium, quod dicis tibi datum, non potuit dici consilium, sed [...] fuit quaedam arreatio sive contionatio improvida et indiscreta». *Trattati morali*, pp. 105–106: «Sappi addunque che ‘l consiglio che tu di’ che ti fu dato [...] non si può dir consiglio; ma fu un aringamento o un parlamento inprovidemente e indiscretamente fatto».

a few advisers and, if necessary, asked for more. He made the mistake of inviting malicious, young, and foolish men (those «adulatores» and «assentatores») instead of good, wise, and older friends of proven loyalty. He thus followed the «voluntatem ac sensum multitudinis stultorum atque errantium». Prudentia establishes another link to the communal councils when she says that «in partitis, quae in consiliis civitatum fieri consueverunt» *consilia* always come to a bad end if the will of the multitude is followed instead of the wisdom of the few<sup>38</sup>. Prudentia (like Albertano, we may surmise) is evidently not an advocate of broadly based government, but her warning to her husband to consult and follow the advice of the right people is nonetheless a lesson in the proper institutional arrangements of the commune. Central to the “civilizing” of her husband is his instruction in the ethics and regulations of civic life. In short, she attempts to make him a citizen.

Prominent among the lessons Prudentia urges on Melibeus is that vendetta, or retribution, is a prerogative of public authority. This surprisingly precocious expression of the distinction between public prosecution of crime and private revenge demanded by honor would remain an incompletely fulfilled objective for a long time<sup>39</sup>. But Prudentia explains that the advice Melibeus received from his friends concerning vendetta «certe non est consentaneum rationi», because «de jure vindicta nulli nisi iudici jurisdictionem habenti permittitur»<sup>40</sup>. Melibeus protests that, without vendetta, «maleficia» would go unpunished, and, moreover, that «multa enim bona proveniunt ex vindicta», for evildoers are killed and others deterred from committing similar crimes. Prudentia agrees that crimes must not go unpunished and that punishment can indeed deter potential malefactors. But the right to punish, she insists, using the language of Roman law, rests with

judicibus imperium vel jurisdictionem habentibus; ad illos namque pertinet malefactores puniendo vindictam exercere ac malos homines terrere.

She goes further to say that «sicut quilibet singulariter vindictam faciendo peccaret, ita iudex vindictam omittendo non esset a peccato immunis»<sup>41</sup>. Prudentia thus affirms not only the right, but also the duty, of

<sup>38</sup> Albertano, *Liber consolationis*, pp. 65-66; *Trattati morali*, p. 108: «i partiti che si prendono ne' consigli de le gran città, sempre vengono ad male efetto, se vogliono seguitare pur la volontà de la moltitudine e non lo sapere di pochi».

<sup>39</sup> The obligation of the communes to prosecute crimes was still being debated in the mid-fourteenth century; see S. Lepsius, *Public Responsibility for Failure to Prosecute Crime? An Inquiry into an Umbrian Case by Bartolo da Sassoferrato*, in *A Renaissance of Conflicts: Visions and Revisions of Law and Society in Italy and Spain*, ed. by J.A. Marino and T. Kuehn, Toronto 2004, pp. 131-170.

<sup>40</sup> Albertano, *Liber consolationis*, p. 78; *Trattati morali*, p. 122: «che per ragione possa far vendetta se non giudicie, ad cui per ragione sia conceduto».

<sup>41</sup> Albertano, *Liber consolationis*, pp. 86-87; *Trattati morali*, pp. 132-133: «anno luogo ne giudici ch' anno licencia e signoria di punire li malifattori et di spaurare li rei uomini [...] Et anche ti dico più, che, secondo che ciascheduno huomo, facciendo vendetta per se, farebbe peccato; così l' giudicie, quando egli lascia che non fa una vendetta, non è senza peccato».

communal judges to prosecute crime and carry out public vendetta: «Vindictam ergo iudex facere debet puniendo homines corporaliter et pecunialiter». Judges must sometimes inflict the most extreme punishments:

Judex ergo potest et debet cum severitate facinorosos necare, mulctare, castigare, bonis spoliare nec pati suum imperium in aliquo contempni.

This last phrase is of central importance: the judge must never allow his «imperium» – his public authority – to be disdained or disparaged, for, as Prudentia explains to Melibeus, vendetta belongs «ad solum Deum vel ad iudicem secularem, et non ad te vel ad alium singulariter». If Melibeus wants vendetta, he must have recourse to a judge with «jurisdictionem vel imperium», who «justitia mediante adversarios tuos debita cohercione punire non tardabit»<sup>42</sup>.

Prudentia permits self-defense but dismisses as useless the towers and fortifications built by elite families for battles against opposing factions and which made many communes veritable forests of private fortifications. When Prudentia asks how Melibeus understood the advice he was given «ut domum tuam diligenter munias», he says he took it to mean he should «munire domum meam turribus et aliis altis aedificiis» to ensure safety and frighten away enemies. No, she replies, fortifying oneself with towers and tall buildings «ad superbiam plerumque pertinet»; it generates fear and hate, with the result that your neighbors, once friends, become your enemies. «Turres cum magno labore et infinitis expensis fiunt», she says, and they are of little use unless defended with the help of prudent and faithful friends, and again at great expense. Melibeus wonders how he can fortify his home if not with towers, to which Prudentia replies that «munitio» can mean different things: «Est enim munitio quae ad dilectionem pertinet, ut amor civium». This kind of fortification, she explains with a quotation from Cicero, is «inexpugnabilis»<sup>43</sup>. Prudentia ultimately converts Melibeus to an acceptance of civic sociability and «amor civium», but it takes the whole of the book-length dialogue to overcome his counterarguments and backsliding.

In the *Tesoretto* Brunetto Latini's Virtues give the wandering knight a similar lesson that culminates with a warning from Prodezza about not rushing into violence:

Dicoti apertamente / che tu non sie corrente / a far né a dir follia, / ché, per la fede mia,  
/ non ha presa mi' arte / chi segue folle parte.

<sup>42</sup> Albertano, *Liber consolationis*, pp. 87-88; *Trattati morali*, pp. 134-135. Zorzi, in *La cultura della vendetta* cit. (above, note 24), reads the dialogue as a defense of the legitimacy of vendetta, in part because Albertano applies «vindicta» to both public and private acts of retribution. But Prudentia still insists that vendetta belongs only to the communal judges (or to God), and in the end she dissuades Melibeus from carrying out his vendetta «singulariter».

<sup>43</sup> Albertano, *Liber consolationis*, pp. 72-74; *Trattati morali*, pp. 114-117.

Prodezza denies the knight the honor he expects from his code of knightly behavior:

E guàrdati ognora / che tu non facci ingiura / né forza a om vivente: / quanto se' più potente, / cotanto più ti guarda, / ché la gente non tarda / di portar mala boce / a om che sempre noce.

If he suffers a wrong, he should defend his «ragion», but, whenever possible, resolve disputes through legal means:

Di tanto ti conforto / che, se t'è fatto torto, / arditamente e bene / la tua ragion mantene. / Ben ti consiglio questo: / che, se tu col ligisto / atartene potessi, / vorria che lo facessi, / ch'egli è maggior prodezza / rinfronar la mattezza / con dolci motti e piani / che venire a le mani<sup>44</sup>.

Like Albertano's Prudentia, Latini's Prodezza permits self-defense. If no other solution is available and vendetta is necessary, the knight should fight with all his strength and resources. But even with his enemies he must conduct himself «cortesemente»:

nolli mostrare asprezza / né villana fierezza / dàlli tutta la via / però che maestria / afina più l'ardire / che non fa pur ferire / ... maestria conchiude / la forza e la vertude / e fa 'ndugiar vendetta / e alungar la fretta / e mettere in obria / e atutar follia<sup>45</sup>.

Central to the self-control that Prodezza preaches to the knight are the notions of *arte* and *maestria*. Both Albertano and Latini associate *arte* with self-restraint and the mastery of self that is fundamental to “civilizing” discipline. *Arte* meant skill, profession, and trade, hence also guild, and more generally organized knowledge that could be learned and taught and whose rules and norms molded its practitioners. Albertano's *De amore et dilectione Dei et proximi* includes a chapter («De artibus diligendis») on why *artes* must be loved: offering a fanciful etymology, he affirms that «ars dicitur ab arcendo, eo quod ad ipsam tamquam ad aliquod certum homo arcetur». This apparently seemed a little murky to Andrea da Grosseto, who adds that *arcendo* has the same meaning as *constringo* and understands Albertano's sentence to mean that a man «si costringe» by his «arte» as by a thing most certain<sup>46</sup>. Andrea was obviously trying to emphasize the sense in which an *arte* shapes or forms the character of those who practice it. Albertano continues: «Est autem ars infinitorum infinitum compendium, vel ars est collectio preceptorum ad unum finem tendentium». He urges his readers to love the *artes* and make every effort to acquire them, for it is through them that «vita hominis instruitur atque defenditur» and that wealth is obtained. Even without wealth, «artes ita preciose sunt quod non reliquunt hominem usque in

<sup>44</sup> Latini, *Tesoretto*, pp. 113-114 (lines 1985-2014).

<sup>45</sup> Latini, *Tesoretto*, pp. 116-117 (lines 2089-2104).

<sup>46</sup> Albertano da Brescia, *De l'amore e de la dilezione di Dio e dell'altre cose*, in *Trattati morali*, pp. 326-327.

mortem»<sup>47</sup>. A similar sense of *arte* as formative and disciplining appears in Paolo da Certaldo. Because «la villa fa buone bestie e cattivi uomini», one should go there infrequently; «usala poco: sta a la città, e favvi o arte o mercatantia».

Se tu hai figliuoli assai, polli [*ponili*] a più arti, e non tutti a una, in però che non possono essere tutti d'uno animo. Domandagli catuno di per sé quale arte o mestiere e' vuole fare, e a quella il poni.

Paolo several times uses the proverbial expression «l'uomo che ha arte ha buona parte». Echoing Albertano, he asserts that «chi ha arte, ha tal parte che mai da sé non si disparte, cioè da lui» and that «niuna ricchezza è più stabile e più sicura a l'uomo che l'arte»<sup>48</sup>.

A compatible but more theoretical notion of *arte* likewise pervades the political sections of Latini's *Tresor*<sup>49</sup>. «Politique» («politica» in the Tuscan translation) is itself a «mestier», both a profession and a teacher, and

la plus haute science et dou plus noble mestier qui soit entre les homes, car ele nos enseigne gouverner les estranges genz d'un reingne et d'une vile, .i. peuple et une comune.

«Politique» also teaches «totes les ars et toz les mestiers que a vie d'ome sont beseignables»<sup>50</sup>; it «enseigne la cité gouverner» and is the «principal et souveraine et dame de toutes ars, por ce que desox lui sont contenues maintes honorables ars». It is «noble por ce que elle met en ordre et adrece toutes ars qui souz lui sont». Thus the «arts» that instill discipline are themselves given «order and direction» by «politica», which is realizable only in the city. The good citizen is (and must be) an *artier* – one who practices an *art* – because those who learn their art well live by its rules and are shaped by them.

Le droit enseingnement si est que l'en aille selonc ce que sa nature peut soffrir; ce est a dire que celui qui enseigne geometrie doit aler par ses argumenz,

and similarly with other skills, for «chascun artier juge bien et dit la verité de ce qui appartient a son mestier, et en ce est son sens soutil». Latini contrasts the *artier* who lives by his *arte*, which generates in him truth-telling and sound judgment, with the man «qui ensive ses volonteiz»<sup>51</sup>. The discipline of *arte* tames errant desires and instills the moderation and justice needed

<sup>47</sup> In Andrea da Grosseto's translation, the title of this chapter is “Come si debono amare le ricchezze” (*Trattati morali*, p. 326), obviously reflecting Albertano's emphasis on the *artes* as the foundation of prosperity.

<sup>48</sup> Paolo da Certaldo, *Libro di buoni costumi*, in *Mercanti scrittori*, 103 (p. 19), 124 (p. 25), 217 (p. 43), 327 (pp. 69-70); also 380 (pp. 95-96).

<sup>49</sup> For this reading of Latini's political language, see J. Najemy, *Brunetto Latini's Politica*, in «Dante Studies», 112 (1994), pp. 33-51.

<sup>50</sup> Latini, *Tresor*, 1.4, p. 12.

<sup>51</sup> Latini, *Tresor*, 2.3, p. 334.

for civil life: «Et artiers s'efforcent a tenir mileu en ses ars et deguerpir les estremités»<sup>52</sup>. Citizens living together in a city «s'entreservent li uns a l'autre», for those who need something another person has receives it and gives him his reward and payment according to the quality of the thing, «jusques a tant que il soient en droite moieneté entr'iaus»<sup>53</sup>, for

Justice est mi entre gaignier et perdre, et ne puet estre sens doner et prendre et changer, car le drapier done drap por autre chose dont il a mestier, et li fevre done fer por autre chose<sup>54</sup>.

Justice was the ideological core of popular governments in the Italian communes, and for Latini it was a product of the practices and customs of fair exchange among practitioners of trades. Governors of cities («l'ome qui gouverne les citez») must also have *arte* («en les griés choses covient avoir art») in order to achieve the purpose of bringing delight to citizens in appropriate things and at appropriate times and places<sup>55</sup>. The commune and its government, made up of many arts, is thus also an *arte* – a community defined and shaped by norms and rules that discipline its citizens. Intriguingly, the Tuscan translation of the *Tresor* renders the phrase «l'ome qui gouverne les cités» as the «artefice della scienza civile» – the artisan, guildsman, or professional practitioner of civic wisdom<sup>56</sup>, thus explicitly linking the “civility” of city life to the discipline of *arte*.

The aristocratic classes of the communes did not of course spontaneously convert to this “civility” upon reading, if they ever did, the works of Albertano and Latini, books that no doubt received greater attention from those seeking to control unruly elites than from the elites themselves. It required the sometimes harsh law and coercive power of popular governments to limit the violence of powerful families and factions. Florence's first popular government (whose chancellor was Brunetto Latini) tore down, or reduced the height of, those family towers that Albertano's Prudentia considered a provocation to hatred and violence. Popular governments in many cities designated knightly families as magnates, deprived them of office-holding rights, and subjected them to harsh penalties for certain violent crimes. Elite classes often regained power with their usual weapons of intimidation, factions, private armies, foreign connections, and *clientelismi*, but by the second half of the fourteenth century, and certainly by the fifteenth, their habits and ways of exercising power had changed, as they were gradually transformed into civic and ultimately courtly aristocracies. The courtly societies of the Renaissance were made possible by – and would not

<sup>52</sup> Latini, *Tresor*, 2.15, pp. 350-352.

<sup>53</sup> Latini, *Tresor*, 2.29, p. 384.

<sup>54</sup> Latini, *Tresor*, 2.38, p. 398.

<sup>55</sup> Latini, *Tresor*, 2.12, p. 348.

<sup>56</sup> J.B. Holloway, *Twice-Told Tales: Brunetto Latini and Dante Alighieri*, New York 1993, p. 437.



have happened without – the “civilizing process” pursued by the communes and popular governments of the thirteenth and fourteenth centuries, a process to which the writings of Albertano da Brescia, Brunetto Latini, and others made decisive contributions.



# ***El juramento real de entronización en la Castilla Trastámara (1367-1474)***

de José Manuel Nieto Soria

## ***1. Legalidad institucional y legitimación política***

En un clarividente trabajo de Giorgio Chittolini en el que abordaba el concepto de lo público y lo privado en el tránsito del medievo a la modernidad<sup>1</sup>, se incorporaba al ámbito de sus reflexiones el relevante papel que alcanza la práctica del juramento como instrumento básico de legitimación del sistema político. En el juramento se ponía de relieve cómo ciertos usos privados podían alcanzar un valor decisivo a la hora de generar compromisos y de asentar estructuras de dimensión pública<sup>2</sup>.

Tal como ha puesto de relieve Paolo Prodi, mediante el juramento se transforman en derecho y, por tanto, en legalidad, las situaciones de hecho<sup>3</sup>. Con el juramento se legalizaban las consecuencias políticas y patrimoniales de las relaciones de poder efectivas. La propia inestabilidad de esas relaciones de poder habría de favorecer la reiteración de juramentos con los que se expresaba el nuevo contexto político al que se daba lugar como consecuencia de la alteración de las alianzas preexistentes.

En efecto, en particular durante el siglo XV, la multiplicación de pactos políticos formalizados mediante juramentos fue una práctica bastante extendida, participando en ellos el monarca, como vía de resolución de conflictos en curso para situaciones particularmente graves<sup>4</sup>. Se trataba, en definitiva,

<sup>1</sup> G. Chittolini, *The 'Private', the 'Public', the 'State'*, en *The Origins of the State in Italy, 1300-1600*, en «The Journal of Modern History», 67 (1995), pp. 34-61. Este artículo de Giorgio Chittolini había aparecido originalmente como *Il 'privato', il 'pubblico', lo 'Stato'*, en *Origini dello Stato. Processi di formazione statale in Italia fra medioevo ed età moderna*, edic. de G. Chittolini, A. Molho y P. Schiera, Bologna 1994 (Annali dell'Istituto Storico Italo-Germanico. Quaderni, 39), pp. 553-590.

<sup>2</sup> Chittolini, *The 'Private', the 'Public'* cit., pp. 57-58.

<sup>3</sup> P. Prodi, *Il sacramento del potere. Il giuramento politico nella storia costituzionale dell'Occidente*, Bologna 1992 (Annali dell'Istituto Storico Italo-Germanico. Monografie, 15), p. 160.

<sup>4</sup> Un análisis desde la perspectiva de la práctica ceremonial de los distintos tipos de juramento político en J.M. Nieto Soria, *Ceremonias de la realeza. Propaganda y legitimación en la Castilla Trastámara*, Madrid 1993, pp. 59-69.

de una implicación excepcional de la monarquía que, mediante el juramento, aceptaba compromisos que facilitasen el impulso de alianzas políticas convenientes y que tuvo especial desarrollo durante los reinados de Juan II<sup>5</sup> y Enrique IV<sup>6</sup>.

Frente a estos juramentos realizados por el rey en el contexto de determinadas necesidades coyunturales del devenir político, en los que su participación personal en el rito de la jura se reclamaba como garantía de estabilidad y compromiso para lo pactado, tal como se ha señalado, «el juramento institucional por antonomasia es el juramento del rey en la ceremonia de proclamación»<sup>7</sup>.

Las escasas previsiones legales existentes en Castilla en materia de juramento real se remitían a la *Segunda Partida*, y a ella se sigue aludiendo en plena época de la dinastía Trastámara, cuando se reclama el juramento real en el momento de acceder al trono. En este texto legal se hacía referencia tanto a la obligación del juramento real, cuando el monarca hubiera cumplido los catorce años, así como al deber de jurar, en caso de minoría de edad, por parte de los tutores. Como resultado del juramento debía quedar garantizada la integridad del reino. Por ello, no es de extrañar que cuando se produzca alguna queja sobre donaciones reales de tierras, la justificación para su formulación por parte de las ciudades recurra en algún caso a recordar al monarca cómo había jurado asegurar la integridad del patrimonio territorial del reino:

E por ende pusieron que quando el rey fuesse finado e el otro nuevo entrasse en su lugar, que luego jurasse si fuesse el de edad de catorze años, o dende arriba, que nunca en su vida departiesse el señorío nin lo enajenasse. E si non fuesse desta edad, que fiziessen jura por el aquellos que diximos en la ley ante desta, que le an de guardar. E el que la otorgasse despues quando fuesse de la edad sobre dicha e todos los que se acertassen y con el que jurassen de guardar dos cosas. La una, aquellas que tañe a el mismo, assí como su vida, e su salud, e su honra, e su pro. La otra de guardar siempre que el señorío sea uno, e que nunca en dicho ni en fecho consientan nin fagan por que se enajene nin parta. E desto deuen fazer omenaje los mas honrrados omes del reyno que y fueren assi como los perlados, e los ricos omes e los caualleros e los fijos dalgo e los omes buenos de las cibdades e de las villas<sup>8</sup>.

Sin embargo, dentro de esas previsiones legales, ni se sistematiza un texto de jura preciso, manifestando tan sólo lo que debe quedar garantizado como consecuencia del juramento real y del juramento del reino; ni tampoco se establece un modelo de procedimiento ceremonial concreto.

<sup>5</sup> Un ejemplo muy destacado de ello en el N.F. Marino, *El Seguro de Tordesillas del conde de Haro don Pedro Fernández de Velasco*, Valladolid 1992. Otros ejemplos en Archivo General de Simancas, Patronato Real, legajo 12, doc. 45 (1439). Entre otras varias manifestaciones: *Crónica de don Alvaro de Luna, condestable de Castilla, maestre de Santiago*, edic. de J.M. Carriazo Arroquia, Madrid 1940, p. 74 y F. Pérez de Guzmán, *Crónica de Juan II*, en *Crónicas de los Reyes de Castilla*, vol. II, Madrid 1953 (Biblioteca de Autores Españoles, 68), pp. 537, 542, 546.

<sup>6</sup> Archivo General de Simancas, Patronato Real, legajo 7, doc. 111 (1464).

<sup>7</sup> A.I. Carrasco Manchado, *Palabras y gestos de compromiso: los reyes castellano y sus juramentos (siglo XV)*, en «e-Spania», 4 (2007), < <http://e-spania.revues.org/index1263.html> >, p. 3.

<sup>8</sup> *Siete Partidas*, Partida II, título XV, leyes 4 y 5.

Sí cabe deducir, no obstante, tanto a partir de las consideraciones de la *Segunda Partida*, como de lo que será la práctica efectiva de esta ceremonia política en el comienzo de cada reinado, que este modelo de juramento real castellano presentaría alguna diferencia con respecto al francés. Éste, tal como se ha expresado en alguna valoración reciente<sup>9</sup>, respondería al modelo de «vertical y ascendente», haciéndose «del soberano a Dios y del pueblo al soberano». En el caso castellano, no dejaría de producirse un cierto sentido descendente, del rey al reino, atendiendo, sobre todo, a garantizar la unidad e indivisibilidad del reino y los privilegios, fueros y franquezas, aunque, naturalmente, todo ello bajo el testimonio divino, y ascendente, del reino al rey, garantizando los deberes propios de la lealtad y servicio al monarca.

De la misma manera que, tal como se acaba de señalar, estamos ante una escasez de previsiones legales con relación al juramento real, otro tanto ocurre con respecto a la fijación de su memoria. En efecto, a pesar del extraordinario relieve institucional que alcanza el juramento real en el momento decisivo de la entronización del nuevo monarca, su reflejo, tanto en la crónica oficial, como en la de carácter particular, resulta bastante escaso, entrando en bien pocos detalles de su desarrollo ritual, cuando éste es aludido, aspecto que casi siempre se produce de forma bien lacónica. Incluso, puede llegar a comprobarse cómo juramentos reales con respecto a los que se acumula un razonable número de indicios de que llegaron a ejecutarse de manera efectiva, estos testimonios se obtienen por vía indirecta, pudiendo pensarse en su falta de celebración en el caso de haber confiado exclusivamente en esa crónica oficial<sup>10</sup>. No es, por tanto, de extrañar que se haya hablado de «omisión crónica» para aludir a la ejecución del juramento regio en el caso, por ejemplo, de las entradas reales llevadas a cabo por Isabel I, cuya realización, en cambio, se constata sobradamente por otras fuentes<sup>11</sup>. Del mismo modo, tal como se analizará, no faltarán los casos de completa ausencia del juramento real inaugural en los textos crónicos más detallados, frente a la comprobación del mismo a partir de otras fuentes alternativas, e incluso de la propia crónica que lo silencia, pero que confirma su realización en un momento muy posterior a los hechos dentro de su propio desarrollo narrativo. Cabría plantearse, tal como se abordará en las conclusiones, si con esta tendencia a la omisión crónica se estaría evitando ofrecer la memoria de una imagen de un rey atado por sus compromisos en un contexto, precisamente, de tendencia del monarca a ubicarse por encima del ordenamiento

<sup>9</sup> M.A. Visceglia, *Riti di corte e simboli della regalità. I regni d'Europa e del Mediterraneo dal Medioevo all'età moderna*, Roma 2009, p. 29.

<sup>10</sup> No es, por tanto, de extrañar que se haya hablado de «ausencia e voluntad sistemática de dejar constancia escrita de la memoria de este acto»: Carrasco Manchado, *Palabras y gestos de compromiso* cit., p. 3.

<sup>11</sup> A.I. Carrasco Manchado, *Isabel la Católica y las ceremonias de la monarquía: las fuentes historiográficas*, en «e-Spania», 1 (2006), < <http://dialnet.unirioja.es/servlet/articulo?codigo=1998717> >, pp. 1-22.

legal<sup>12</sup>. Con ello, se estaría haciendo, por tanto, desde el texto cronístico una aportación particular a la legitimación de una cierta opción monárquica.

Tres fueron los elementos sobre los que se fundamentó el significado de los juramentos como solemnidad legitimadora. En primer lugar, la presencia de una colectividad que simbolizaba lo que se interpretaba como la integridad completa del reino y que actuaba en el desarrollo del juramento como orgánicamente estructurada en tres estados, cada uno receptor de un juramento particular del rey, en unas ocasiones, y, en otras ocasiones, como receptores de un contenido específico del juramento real. En segundo lugar, la transcendencia de la voz solemne, mediante la cual se expresaba la esencia de lo que irrenunciablemente se esperaba del ministerio regio. En tercer lugar, el simbolismo de los gestos que se ejecutaban insertados en un contexto ceremonial dotado de la máxima solemnidad y en el que siempre quedaba patente, dicho en términos agustinistas, la conexión entre la *civitas* humana y la *civitas* divina<sup>13</sup>.

En definitiva, a partir de la relevancia de estos fundamentos de la dimensión legitimadora del juramento real, cabe comprender la posición central y nada secundaria de esta práctica en la ritualidad característica del acceso al trono.

## 2. La legitimación de una nueva dinastía

Todavía en pleno desarrollo de la guerra civil, Enrique de Trastámara, el futuro Enrique II que inauguraría la nueva dinastía, llevaba a cabo todo un juramento, en la mano del arzobispo de Toledo, propio de un acto de entronización, en el marco de unas cortes que había convocado en Burgos<sup>14</sup>. Este acto no dejaba de tener llamativas peculiaridades. Resultaba evidente que, tanto con la convocatoria de esas cortes, como con la realización de ese juramento, el candidato al trono se rodeaba de referentes de legitimidad propios y exclusivos del poder real. Tal como señaló Julio Valdeón<sup>15</sup>, perdón, legalidad y justicia quedaban plasmados en el desarrollo de aquellas cortes, ofreciéndose así como señas de identidad de un rey que se presentaba como regenerador de un reino que se levantaba contra otro rey al que se aludía como malo y tiránico, de acuerdo con la propaganda trastamarista<sup>16</sup>. Por tanto, se

<sup>12</sup> B. González Alonso, *De Briviesca a Olmedo (algunas reflexiones sobre el ejercicio de la potestad legislativa en la Castilla bajomedieval)*, en «El Dret Comú i Catalunya», edición de A. Iglesia Ferreirós, Barcelona 1995, pp. 43-74 y J.M. Nieto Soria, *El 'poderío real absoluto' de Olmedo (1445) a Ocaña (1469): la monarquía como conflicto*, en «En la España Medieval», 21 (1998), pp. 159-228.

<sup>13</sup> Nieto Soria, *Ceremonias de la realeza* cit., pp. 67-68.

<sup>14</sup> *Cortes de los antiguos reinos de León y de Castilla*, Madrid 1863, vol. II, p. 145.

<sup>15</sup> J. Valdeón Barunque, *Enrique II de Castilla: la guerra civil y la consolidación del régimen (1366-1371)*, Valladolid 1966, pp. 127-128.

<sup>16</sup> J. Valdeón Barunque, *La propaganda política, arma de combate de Enrique de Trastámara*, en «Historia. Instituciones. Documentos», 19 (1992), pp. 459-467; M. del Pilar Rábade Obradó,

trataba de un acto de lo más conveniente desde esas necesidades de propaganda, y que parecía especialmente inspirado por ésta.

Sin embargo, de acuerdo con la textualidad de las actas en las que se dejó testimonio de aquellas cortes, este juramento no era el resultado de la iniciativa del monarca. Tampoco se realizaba bajo el marco ritual de lo que podía considerarse propiamente como un acto de proclamación, sino que se producía como consecuencia de una petición proveniente de la iniciativa de los procuradores de las ciudades. Planteado así, este juramento podía percibirse como una cierta forma de acatamiento a las demandas populares por parte de quien se pretendía ya rey de pleno derecho, cuando aún el trono, en realidad, era objeto de litigio, mostrándose como un monarca sometido a la negociación, al pacto y al compromiso, en un contexto en el que la obtención del apoyo de las ciudades bien merecía plegarse a esa y a otras exigencias. En cualquier caso, dadas las circunstancias políticas del momento<sup>17</sup>, parecía indudable que de su realización, el futuro Enrique II podía recibir, por lo menos a corto plazo, más ventajas que perjuicios, resultando, por otra parte, inevitable en aquellos momentos someterse a tal procedimiento.

Este peso de las circunstancias políticas inmediatas con relación al juramento al que se acaba de hacer referencia se hace más evidente si comparamos estos hechos con los que habrán de producirse apenas doce años después, en 1379, en coincidencia con la llegada al trono de su sucesor Juan I. También en Burgos, y también en el marco de unas cortes, las que se convocaban como cortes inaugurales, los procuradores de los concejos plantearon en similares términos el mismo asunto que años atrás fuera planteado a su padre, es decir, el compromiso de que el nuevo rey garantizase sus fueros, privilegios y franquezas. En el caso de Enrique II, la respuesta a aquella petición de los procuradores en cortes motivó la ejecución del juramento real. En el caso, en cambio, de Juan I, el rey se limitó a responder lo siguiente: «a esto rrespondemos que nos plaze de gelos confirmar, e mandamos queles valan e les sean guardados, segund que en tiempo del Rey nuestro padre, que Dios perdone»<sup>18</sup>. Sin embargo, el que se produjera esta respuesta que evidenciaba un grado de compromiso regio no comparable con el que asumiese en su día Enrique Trastámara en su lucha por alcanzar el trono, no significaba que no se hubiera llevado a cabo un juramento de entronización. De hecho, éste es aludido, aunque de forma bien lacónica, en la crónica correspondiente a este reinado. En ella se señala cómo teniendo el rey la edad de veintiún años, en el día de Santiago de 1379, tras haber sido alzado antes como rey en Santo

*Simbología y propaganda política en los formularios cancellerescos de Enrique II de Castilla*, en «En la España Medieval», 18 (1995), pp. 223-239 y C. Estepa Díez, *Rebelión y rey legítimo en las luchas entre Pedro I y Enrique II*, en *La lucha política. Condena y legitimación en la España Medieval*, coord. por I. Alfonso Antón, J. Escalona Monge, G. Martín, Lyon 2004 (Annexes des Cahiers de Linguistique et de Civilisation Hispaniques Médiévales, 16), pp. 43-61.

<sup>17</sup> Un análisis de conjunto de esas circunstancias: J. Valdeón Baroque, *Enrique II (1369-1379)*, Palencia 1996, pp. 33-94.

<sup>18</sup> *Cortes* cit., vol. II, p. 287.

Domingo de la Calzada, fue coronado en el monasterio de las Huelgas de Burgos, haciendo coronar también a la reina doña Leonor. Ese mismo día haría armar a cien caballeros, tras lo que se dio lugar «a muy grandes fiestas en la ciudad de Burgos»<sup>19</sup>. Después se harían cortes, en las que, además de confirmar todos los privilegios, «juró de guardar las franquezas é libertades é buenos usos, é buenas costumbres del Regno»<sup>20</sup>.

### 3. *El juramento en los días de las minorías reales*

Si las diferencias entre el juramento de Enrique II y de Juan I resultan evidentes, aún más relevantes son aquellas que se producen con relación al de Enrique III, para el que nos encontramos ante una situación particular, como es el que estamos ante un rey menor de edad que ha de acceder al trono ante la repentina muerte de su padre al caer de su caballo, contando el heredero sólo once años<sup>21</sup>. Habiendo fallecido el monarca el 9 de noviembre de 1390, las cortes, que habrán de celebrarse en Madrid, expiden su primer documento el 20 de enero de 1391, permaneciendo reunidas varios meses, dada la complejidad de la situación política planteada, llevando fecha de 25 de abril los últimos documentos que se expiden en ellas<sup>22</sup>. Con una asistencia de procuradores de ciudades en un número inusualmente alto que acaba alcanzando una representación de medio centenar de ciudades<sup>23</sup>, estas cortes, de extraordinaria relevancia, como consecuencia de la necesidad de establecer un gran número de acuerdos que garantizasen la gobernación del reino mientras transcurrieran los tres años que habría que esperar hasta que el rey alcanzase los catorce, se convertirán en el escenario de un importante número de juramentos y de gran significado político. De hecho, puede afirmarse que la práctica del juramento se convierte en protagonista central de aquella reunión de cortes<sup>24</sup>. Juramentos de procuradores, de electores de tutores y de los propios tutores se sucederán en el seno de las cortes, dándose comienzo el 6 de febrero y continuándose hasta el 15 de marzo. Llama la atención cómo el principal receptor de los juramentos no habrá de ser en este caso un prelado, sino el duque de Benavente.

De entre los múltiples juramentos que se llevan a cabo, si se atiende a los compromisos que se expresan en su formalización, el que alcanza mayor

<sup>19</sup> Sobre estos acontecimientos y la celebración inmediata de cortes: L. Suárez Fernández, *Historia del reinado de Juan I de Castilla*, vol. I, Madrid 1977, pp. 24-32.

<sup>20</sup> *Crónica de Juan I*, en *Crónicas de los Reyes de Castilla*, vol. II, Madrid 1953 (Biblioteca de Autores Españoles, 68), p. 65.

<sup>21</sup> Suárez Fernández, *Historia del reinado de Juan I de Castilla* cit., pp. 389-390.

<sup>22</sup> Abundante información documental relacionada con el desarrollo de estas cortes en C. Granda Gallego, *Las Cortes de Madrid de 1391. Esbozo cronológico*, en «En la España Medieval», 2 (1981), pp. 457-466.

<sup>23</sup> Probablemente fueron las cortes castellanas con mayor presencia de representación urbana desde las celebradas en Burgos en 1315.

<sup>24</sup> Plasmación documental de estos juramentos en *Cortes* cit., vol. II, pp. 490-507.



relieve es el que realizan el 15 de marzo los que habrían de formar parte del consejo de regencia. Este juramento tuvo lugar actuando en este caso como su receptor, ya que el duque de Benavente formaba parte de los consejeros que habían de jurar, el canciller del sello de la poridad, don Juan Martínez<sup>25</sup>. En su persona quedaba representada simbólicamente la continuidad institucional de la administración regia en un contexto de interregno. Tales compromisos afectaban a los siguientes asuntos: velar por el mejor servicio y seguridad del rey, actuando siempre con lealtad hacia su persona, guardar los privilegios y derechos de caballeros e hidalgos, guardar privilegios y franquezas de iglesias y órdenes, otro tanto para ciudades y villas; evitar cualquier afectación en el ejercicio de su función por parentesco, amistad o rencor, y actuar con justicia. Al juramento de los consejeros siguió el de quien había de actuar como presidente del consejo de regencia, el arzobispo de Toledo don Pedro Tenorio<sup>26</sup>, el cual, en manos del duque de Benavente, de nuevo, habría de jurar su compromiso de cumplir los acuerdos que se produjeran en el seno del consejo de regencia<sup>27</sup>.

Alcanzada la mayoría de edad, Enrique III llevaría a cabo distintos juramentos, sin embargo, ninguno de ellos parece responder a lo que sería el juramento propio de entronización, siendo más bien manifestaciones de esos juramentos de carácter ocasional realizados como consecuencia de circunstancias coyunturales representativas de los eventuales conflictos políticos en curso<sup>28</sup>. La salud del monarca, de acuerdo con los datos que aporta el cronista Fernán Pérez de Guzmán, ya comenzó a ofrecer indicios inquietantes desde que éste contase con apenas dieciocho años, señalando el mencionado cronista cómo, a partir de esa edad, «ovo muchas e grandes enfermedades, que le enflaqueçieron el cuerpo e le dañaron la complisión»<sup>29</sup>. Sería seguramente el temor a que alguna de las recurrentes crisis de salud del monarca dieran lugar a una falta de previsión de sucesión lo que dio lugar a que, a comienzos de enero de 1402, se convocara a prelados, nobles y procuradores de las ciudades a unas cortes que, entre otros asuntos referidos a la gobernación del reino y a las necesidades de la guerra con Portugal<sup>30</sup> que conduciría ya en noviembre de aquel mismo año a unas nuevas treguas entre Castilla y Portugal<sup>31</sup>, tuvieron como motivo destacado la jura como heredera de la infanta María. Este acontecimiento ha dejado algún rastro documental referido, en especial, a conflictos de prelación entre las ciudades de Toledo y

<sup>25</sup> Cortes cit., vol. II, pp. 503-506.

<sup>26</sup> A.M. Franco Mata, *El Arzobispo Pedro Tenorio, vida y obra: su capilla funeraria en el claustro de la catedral de Toledo*, en *La Idea y el sentimiento de la muerte en la historia y en el arte de la Edad Media*, edic. de M. Núñez Rodríguez y E. Portela Silva, Santiago 1992, pp. 73-93.

<sup>27</sup> Cortes cit., vol. II, p. 506.

<sup>28</sup> Ejemplo de ello en *Crónica de Enrique III* cit., p. 231.

<sup>29</sup> E. Mitre Fernández, *Una muerte para un rey: Enrique III de Castilla*, Valladolid 2001, p. 46.

<sup>30</sup> E. Mitre Fernández, *Mecanismos institucionales y poder real en la Castilla de Enrique III*, en «En la España Medieval», 1 (1980), pp. 318-328, p. 321.

<sup>31</sup> Archivo General de Simancas, Patronato Real, legajo 49, doc. 9 (18 de noviembre de 1402).

Burgos<sup>32</sup>. Apenas nacido el príncipe Juan, se daría lugar, en 1405, a un nuevo juramento para asegurar su reconocimiento como heredero al trono<sup>33</sup>.

Tal como ocurriera con la repentina muerte de Juan I, el fallecimiento de Enrique III en la navidad de 1406 motivó el que tuvieran que llevarse a cabo actos excepcionales destinados a la legitimación de la regencia que habría de ocuparse del gobierno del reino hasta que el sucesor, el futuro Juan II, alcanzase la edad mínima de 14 años, para lo que había que esperar hasta 1419.

De acuerdo con el relato cronístico que nos transmite Alvar García de Santa María, el juramento realizado a comienzos de 1407 en la catedral de Toledo por los tutores, doña Catalina de Lancaster, viuda del rey recién fallecido, y el infante don Fernando, hermano de Enrique III y futuro rey de Aragón, no parece tanto responder a una voluntad propia de éstos para llevar a cabo tal juramento, sino que parece más bien el resultado de la exigencia explícita de los procuradores del reino:

E los procuradores del Reyno dixerón a la dicha Reyna e infante que bien sabían en cómo avían azeptado la tutela e regimiento de los Reynos e señoríos del dicho señor Rey don Juan, e por ende que les dezían que fiziesen el juramento e solemnidad que en el dicho testamento e en los Derechos deste Reino era contenido. E que faziéndolo que estauan prestos para los reçibir por tutores e regidores del Reino del Rey su señor. E los dichos señores Reyna e infante juráronlo así, según que adelante lo contará la Ystoria. E otrosí, los dichos procuradores dixerón a los dichos Reyna e Infante, así como tutores e regidores de los dichos reynos e señoríos del dicho señor Rey, que jurasen e fiziesen juramentos de les guardar sus priuilegios e sus buenos usos e sus buenas costumbres, e sus franqueças, merçedes e livertades que las çibdades, villas e lugares de los reinos del dicho señor Rey don Juan avían de los reyes pasados, sus antecesores<sup>34</sup>.

Como se ve, la exigencia de juramento por parte de los procuradores encontraba su principal fundamento legal inmediato en las propias disposiciones del rey difunto, cuyo contenido se habían dado a conocer en la propia catedral de Toledo previamente<sup>35</sup>. En efecto, en el testamento real constaba una disposición bien precisa al respecto, en la que se señalaba lo siguiente:

Los quales dichos Tutores jurarán sobre la Cruz é los Sanctos Evangelios, y el dicho Infante hará pleyto é omenage que bien é lealmente á todo su poder é su buen entendimiento governarán é regirán los dichos Reynos é Señoríos, é que los non partirán, ni consentirán partir ni enagenar, é de guardar é cumplir é hacer cumplir todo lo contenido en este mi testamento<sup>36</sup>.

El juramento de los tutores reales, para el que actuaron como principales oficiantes el canciller real Juan Martínez y el obispo de Sigüenza, se ciñó

<sup>32</sup> Archivo General de Simancas, Patronato Real, legajo 7, docs. 59 (5 de enero de 1402) y 61 (6 de enero de 1402).

<sup>33</sup> Mitre Fernández, *Mecanismos* cit., p. 321-322.

<sup>34</sup> A. García de Santa María, *Crónica de Juan II de Castilla*, edic. de J.M. Carriazo Arroquia, Madrid 1982, pp. 44-45.

<sup>35</sup> *Ibidem*, p. 44.

<sup>36</sup> El testamento está incluido íntegro en *Crónica de Enrique III* cit., pp. 264-270; esta disposición testamentaria en p. 267.

estrictamente a las previsiones testamentarias, desglosándose en tres juramentos específicos, destinado cada uno a cubrir los objetivos fundamentales que debían dar sentido a su acción de gobierno de los tutores reales mientras llegaba el momento de la mayoría de edad del monarca. Así, el primero respondía a un juramento general por el que se comprometían a gobernar y atender los asuntos de la gobernación con lealtad al rey durante su minoría y velando por el provecho y honra del reino, garantizando su integridad. Por el segundo juramento respondían del estricto cumplimiento de todas las previsiones testamentarias del rey difunto. Finalmente, el tercero tomaba un carácter más carácter estamental. Por él se comprometían a velar por el mantenimiento de los privilegios y franquezas de nobles, caballeros e hidalgos, del clero y de las ciudades y villas del reino<sup>37</sup>.

#### 4. *El tiempo de los juramentos ocultados*

Alcanzada por Juan II la edad de 14 años, fueron reunidas con cierta urgencia las cortes en el alcázar real de Madrid con extensa presencia de grandes, nobles y prelados junto con los procuradores de las ciudades. En realidad, la urgencia de tal reunión de cortes con las que se iba a solemnizar el acceso del rey a la mayoría de edad no venía tanto de los años cumplidos por el rey, sino sobre todo, de que se percibiera por la mayor parte de los grandes del reino que el arzobispo de Toledo don Sancho de Rojas estaba asumiendo una preeminencia excesiva en el control de los asuntos de gobierno. Así se veía, sobre todo, desde la facción cortesana cuya cabeza en ese momento ostentaba el almirante de Castilla don Alonso Enríquez. Esta rivalidad se puso claramente de manifiesto en los propios discursos inaugurales que se pronunciaron en la apertura de aquellas cortes, uno a cargo del arzobispo de Toledo, don Sancho de Rojas, y otro a cargo del almirante de Castilla, don Alonso Enríquez. Tras estos discursos, «fue tomado el juramento acostumbrado hacer a todos los del Consejo, los cuales besaron la mano al Rey»<sup>38</sup>. A partir, tanto del texto cronístico, como de las actas de esta reunión de cortes<sup>39</sup>, no parece que tuviera lugar juramento alguno por parte del rey. Sin embargo, en documentación municipal relativa al concejo de Salamanca se afirma que el nuevo monarca «dixo que juraba (...) guardar e faser guardar a todos los fijosdalgo de sus regnos e a los prelados e iglesias e a los maestros e órdenes e a todas las çibdades e villas e logares de sus regnos todos sus previllejos, franquezas e merçedes e libertades e fueros e buenos usos e buenas costunbres que tienen de los reys passados donde él venía»<sup>40</sup>. A partir de estos datos, nos encontraríamos ante un caso bastante llamativo de ocultamiento cronístico del juramento real. Teniendo en cuenta que la redacción de la crónica se produjo bastante tiempo después, en un contexto de

<sup>37</sup> *Crónica de Juan II de Castilla* cit., pp. 46-48.

<sup>38</sup> Pérez de Guzmán, *Crónica de Juan II de Castilla* cit., pp. 376-378.

<sup>39</sup> *Cortes de los antiguos reinos de León y Castilla*, Madrid 1866, vol. III, pp. 10-22.

<sup>40</sup> Carrasco Manchado, *Palabras y gestos* cit., p. 12, nota 11.

importante desarrollo del poderío real absoluto reclamado desde la monarquía, cabría preguntarse en qué medida esa ocultación pudiera ser resultado de la voluntad de tratar de ofrecer una imagen de un monarca no sometido a los compromisos resultantes de ese juramento inaugural.

Ya pasados veinte años después de su llegada al trono, con motivo de una reunión que el rey mantuvo con los procuradores de las ciudades en Medina del Campo en 1439, y ante las demandas que le habían presentado los infantes de Aragón, en el marco de las tensiones que mantenían con el privado regio don Alvaro de Luna, y que suponían de hecho la reclamación de extensos patrimonios al monarca, los procuradores aluden al juramento que el rey habría realizado durante el acto de su entronización en 1419, suponiendo la aceptación de las reclamaciones de los infantes el incumplimiento de hecho del juramento<sup>41</sup>. Con ello, parecería confirmarse la realización efectiva de un juramento por parte de Juan II en el momento de su entronización, a pesar de que ni la crónica del reinado, ni la textualidad de las actas de las cortes correspondientes permitieran afirmarlo.

En cualquier caso, la expansión del poderío real absoluto, tal como se había producido en la práctica gubernativa durante el reinado de Juan II permitía que el monarca, ya al final de su reinado, pudiera afirmar con rotundidad su derecho a incumplir los juramentos contraídos, lo que nos sitúa ante una crisis evidente de su valor político, en particular, por lo que se refería a la delimitación del poder regio a través del juramento inaugural en cada reinado. Así, en un documento dado en 1453, podemos leer como justificación de la decisión regia de expropiación de diversos bienes del privado regio don Alvaro de Luna tras su ejecución: «et yo segund rason, nin derecho natural, nin divino, nin aun positivo, caso que del tal yo non fuese soluto, lo que soy, non seria obligado de le guardar, nin observar juramento, nin seguridad alguna»<sup>42</sup>.

Llegado el momento del acceso al trono de Enrique IV, volvemos a encontrarnos con una situación similar a la observada en el caso de Juan II, es decir, el silencio cronístico con respecto a cualquier forma de prestación de juramento por el monarca con motivo de su entronización. Es, sin embargo, a partir de noticias posteriores de diversa procedencia cuando se encuentran referencias a tal juramento. Así se puede comprobar a través de la denominada *Crónica anónima*. En ella, ante la situación de desgobierno en aumento que se va percibiendo, el almirante de Castilla y el conde de Haro, en representación de los grandes del reino, le remiten la petición siguiente:

Suplicándole se acordasse que al tiempo que fue rey resçebido fizo el juramento acostunbrado por los reyes antepassados del, es a saber. Que guardaría ynviolablemente la fe catholica y el derecho de las yglesias, e de todos los eclesiasticos, e de los cavalleros e dueñas e donzellas, e generalmente de todos los pueblos por Dios a el encomendados, e gobernaría segunt las leyes y estatutos fechas por los ynclitos reyes sus antepassados<sup>43</sup>.

<sup>41</sup> Pedro Carrillo de Huete, *Crónica del halconero de Juan II*, edic. de J.M. Carriazo, Madrid 1946, p. 298.

<sup>42</sup> *Memorias de don Enrique IV de Castilla*, vol. II, Madrid 1835-1913, doc. XXXVII, p. 71.

<sup>43</sup> *Crónica anónima de Enrique IV de Castilla (Crónica castellana)*, edic. de M.P. Sánchez-Parra,

No se trataba, por otra parte, de personajes, estos dos a los que se acaba de aludir, de los que se pudiera esperar que apelaban a alguna forma de invención, puesto que fueron testigos directos de la entronización del monarca. Además, testimonio idéntico se encuentra en el *Memorial de diversas hazañas* de Diego de Valera<sup>44</sup>. Así, por tanto, ante la situación de desgobierno, los personajes más influyentes del reino encuentran su principal fundamento de reconvención frente al rey en apelar al compromiso que el éste habría adquirido mediante su juramento en el momento de acceder al trono. Un juramento que, con ocasión de describir el acceso al trono de este monarca, habría sido ignorado por todos los cronistas, incluso por los mismos que ahora aludían a él<sup>45</sup>.

En este sentido, toma especial relevancia el que un autor tan atento a las actividades ceremoniales de la corte como el citado Diego de Valera, autor entre otras obras del *Ceremonial de príncipes*<sup>46</sup>, nada diga con respecto al juramento de entronización cuando, en cambio, ofrece una descripción muy pormenorizada de los distintos actos ceremoniales llevados a cabo en Valladolid con motivo del acceso al trono de este monarca. Así, en efecto, aludirá a los distintos homenajes «según la costumbre é forma de España» que le prestarán los principales del reino, a cómo don Enrique, «ya obedecido por rey», cabalgará por la villa, junto con todos sus caballeros, siendo precedido por el pendón real y los reyes de armas, dándose el grito ritual «Castilla, Castilla, por don Enrique», arropados por las trompetas; o cómo luego se le prestó nuevo homenaje, dando exhaustiva relación de los personajes participantes en tal acto<sup>47</sup>. Sin embargo, a pesar de todo este detallismo descriptivo con el que se aborda el acontecimiento, no cabe advertir ni el más leve rastro de juramento real.

Sin embargo, algunos años más tarde, ya en 1469, también en el seno de las cortes, en este caso celebradas en Ocaña, se hace manifestación de ese juramento ignorado por la cronística enriqueña al describir el comienzo del reinado. A lo largo de estas cortes se le reprocha reiteradamente al monarca el incumplimiento de sus obligaciones, lo que motivará que se le haga ver su falta de observancia con respecto al «juramento que vuestra alteza hizo al tiempo que fue alçado e obedescido por rrey» que habría realizado al comienzo de su reinado<sup>48</sup>.

Madrid 1991, p. 107.

<sup>44</sup> Diego de Valera, *Memorial de diversas hazañas*, en *Crónicas de los Reyes de Castilla*, vol. III, Madrid 1953 (Biblioteca de Autores Españoles, 70), p. 21.

<sup>45</sup> Así se puede comprobar en Diego Enríquez del Castillo, *Crónica de Enrique IV*, edic. de A. Sánchez Martín, Valladolid 1994, pp. 136-138; Valera, *Memorial* cit., pp. 3-4; *Crónica anónima de Enrique IV de Castilla* cit., pp. 8-9; A. Palencia, *Gesta hispaniensia ex annalibus suorum dierum collecta*, edic. de B. Tate y J. Lawrence, Madrid 1998, pp. 95-99.

<sup>46</sup> Sobre la labor literaria de este personaje: J. D. Rodríguez Velasco, *El debate sobre la caballería en el siglo XV. La tratadística caballeresca castellana en su marco europeo*, Salamanca 1996.

<sup>47</sup> Valera, *Memorial* cit., pp. 3-4.

<sup>48</sup> *Cortes de los antiguos reinos* cit., p. 777.

La proclamación de Isabel I el 13 de diciembre en Segovia incluyó no uno, sino dos juramentos de la reina bien explícitos ante los concurrentes y que también fueron ignorados por los relatos cronísticos, pero quedando, en cambio, fielmente reflejados en el acta notarial levantada de aquella ceremonia<sup>49</sup>. Así, según ha sido destacado<sup>50</sup>, se nos presenta la imagen de la reina asentada en su silla real situada en el cadalso levantado ante el pórtico de la iglesia de San Miguel, escuchando el discurso de extenso contenido propagandístico pronunciado por el doctor y oficial regio, Juan Díaz de Alcocer<sup>51</sup>, quien, a su término, pidió a la reina que jurara las leyes del reino. Estamos, por tanto, ante una demanda de juramento reclamada por un oficial regio, por tanto, perfectamente planificada en el desarrollo de la ceremonia, y que se contextualiza en un conjunto de gestos dirigidos a producir un efecto de mayor legitimidad e incontestabilidad para un acceso al trono al que sucedería una guerra civil ante el rechazo por parte del reino de los derechos sucesorios de Isabel. Tras el juramento de la reina, ésta recibió el de los clérigos, nobles y caballeros. A este acto le siguió inmediatamente un nuevo juramento de la reina, que podríamos considerar como de dimensión más local, en cuanto que éste fue prestado ante el corregidor y los principales mandatarios laicos de Segovia para garantizarles el mantenimiento de sus privilegios y franquizas. A continuación, las autoridades segovianas le harían su juramento a la reina. Tal como se ha afirmado: «estos juramentos recíprocos son la clave de toda la ceremonia de proclamación»<sup>52</sup>.

## 5. Conclusiones

A partir del análisis realizado, todo parece indicar que la prestación del juramento por los reyes castellanos de la dinastía Trastámara fue una práctica habitual en el proceso ritual de acceso al trono. Este juramento regio encontraba su fundamento legal en la exigencia de un texto como la *Segunda Partida*, cuya influencia en la vida política de la Castilla trastámara se hizo cada vez más omnipresente<sup>53</sup>. Del mismo modo, también fue ese mismo texto alfonsino, de acuerdo con lo que en él se expresaban como los deberes esen-

<sup>49</sup> Un estudio en detalle sobre la ceremonia en: A.I. Carrasco Manchado, *Isabel I de Castilla y la sombra de la ilegitimidad. Propaganda y representación en el conflicto sucesorio (1474-1482)*, Madrid 2006, pp. 86 y sigs.

<sup>50</sup> A.I. Carrasco Manchado, 'Por mi palabra y fe real...': el papel del juramento regio en el conflicto sucesorio (1468-1480), en *Isabel la Católica y su época*. Actas del Congreso Internacional 2004, edic. de L. Ribot, J. Valdeón, E. Maza, I. Valladolid 2007, pp. 401-418, pp. 408-410.

<sup>51</sup> P.M. Cátedra, *Oratoria política y modelo de propaganda. La Oración de Juan Díaz de Alcocer en la Proclamación de Isabel la Católica (1474)*, en «Atalaya. Revue d'Études Médiévales Romanes», 11 (2009) < <http://atalaya.revues.org/index576.html> >.

<sup>52</sup> Carrasco Manchado, 'Por mi palabra y fe real...' cit., p. 409.

<sup>53</sup> J.M. Nieto Soria, *La "Segunda Partida" en los debates políticos de la Castilla del siglo XV*, en «e-Spania», 5 (2008), <[http://opac.regesta-imperii.de/lang\\_en/anzeige.php?aufsatz=La+%22Segunda+Partida%22+en+los+debates+pol%C3%ADticos+de+la+Castilla+del+siglo+XV&pk=1272550](http://opac.regesta-imperii.de/lang_en/anzeige.php?aufsatz=La+%22Segunda+Partida%22+en+los+debates+pol%C3%ADticos+de+la+Castilla+del+siglo+XV&pk=1272550)> .

ciales del buen monarca, y siguiendo su misma terminología<sup>54</sup>, el que dejó definido cuáles debían ser los contenidos esenciales de ese juramento mediante el cual debía quedar sobre todo patente el compromiso del rey con el mantenimiento de la integridad del reino.

Siguiendo un modelo ritual similar en los distintos casos, realizado ante los Evangelios, la cruz y la presencia de un prelado y, generalmente, dentro o en el entorno templo, iglesia, catedral o monasterio, se trataba de un juramento que se planteaba como compromiso con el reino, cuya representación de grandes y nobles, prelados y procuradores de las ciudades habría acudido al acto, por lo común, como consecuencia de una convocatoria a cortes, en cuyo seno se llevaba a cabo esta ceremonia. Esto permitió que, en situaciones de crisis política, desde distintas instancias del reino, se le pudiera reprochar al monarca el incumplimiento de ese compromiso jurado. Además, el juramento real se planteó desde una doble dimensión, la que venía dada por el reino como unidad indisoluble y, por otro lado, desde la dimensión del juramento como compromiso de conservación de los privilegios, libertades y franquezas estamentales, bajo su especificidad diferenciada de nobleza, iglesia y ciudades.

En los casos en los que se puede disponer de una descripción más precisa de la ritualidad del juramento, puede comprobarse cómo la realización de éste por el rey fue condición previa para la prestación del homenaje, frecuentemente seguido del besamanos, por parte de los representantes del reino. Con ello se pondría de relieve hasta qué punto la realización del juramento real de entronización determinaba la plena legitimidad del nuevo monarca.

Desde el juramento de Juan II, cuando accede a la mayoría de edad en 1419, se convierte en un hecho recurrente la ocultación cronística de este acontecimiento, incluso en el contexto de más o menos prolijas descripciones de las ceremonias de acceso al trono, a pesar de la comprobación más tardía de que tal juramento de entronización sí se llegó a producir. Teniendo en cuenta que la redacción de estas crónicas se contextualiza ya en el proceso de impulso de un perfil crecientemente absolutista de los monarcas, aunque no exento de resistencias, sólo una toma de partido por parte de los cronistas, a fin de cuentas, oficiales regios<sup>55</sup>, permite establecer una hipótesis explicativa de tal ocultación. De acuerdo con esta hipótesis, habría que pensar que el cronista evitaba la alusión a un juramento del que se podían deducir efectos contrarios a esa imagen de desligamiento del rey con respecto a los límites impuestos por la ley y por los compromisos políticos contraídos. De este modo, los cronistas, servidores, en definitiva, del poder real, con esta ocultación del juramento, estarían evitando la referencia a una imagen de éste en la que se hacía presente un origen estamental de la legitimidad regia de efectos

<sup>54</sup> A.R. Rubio Flores, *Estudio léxico institucional: la Partida segunda del Rey Sabio*, Granada 1993.

<sup>55</sup> R.B. Tate, *The official chronicler in the fifteenth century: a brief survey of Western Europe*, en «Nottingham Medieval Studies», 41 (1997), pp. 157-185.

demasiado restrictivos para un concepto de poderío real absoluto. Un poderío real absoluto que compatibilizaba mal con cualquier forma de compromiso que, si bien era preciso ritualizar, a fin de mantener la legitimidad ceremonial del acceso al trono, no era necesario perpetuar en la memoria mediante unos textos que, incluso bajo la forma de la crónica oficial, estaban profundamente afectados por las demandas de la interpretación del poder regio.



## ***Das Testament des Raimondo de Marliano***

von Werner Paravicini

Aufgefordert, zu Ehren des Mailänders Giorgio Chittolini einen Text zu verfassen, erinnerte ich mich des Testaments eines in Burgund, d. h. in der Freigrafschaft und den alten Niederlanden, groß gewordenen Mailänders, des Raimondo de Marliano. Vor vierzig Jahren hatte ich es gefunden und abgeschrieben, aber nie veröffentlicht<sup>1</sup>. Jetzt holte ich es wieder hervor und begann, mit weiterem Material daraus ein Lebensbild zu schaffen. Das Manuskript, das aus dieser Arbeit entstand, erreichte schließlich den fünffachen Umfang dessen, was die sorgenden Herausgeber dieser Festschrift zulassen konnten, und ganz richtig lehnten sie die Zumutung ab, dies "kleine Buch" (wie sie mir sagten) als Beitrag zu drucken. Deshalb folgt hier nur der sparsam kommentierte Text des Testaments. Dem Leser wird mehr wissen wollen über den darin aufscheinenden, in weiten Bezügen jenseits und diesseits der Alpen stehenden Mann, der mit der Ausführung seines letzten Willens so bedeutende Leute wie den Kanzler Herzog Karls des Kühnen, den Präsidenten von dessen Parlament zu Mecheln und die Brüder Accerrito und Tommaso Portinari beauftragt hat, deren Namen nicht nur die Wirtschaftsgeschichte, sondern auch die Kunstgeschichte klingen. Diese haben sich sogar wirklich um die Errichtung seiner umfangreichen Stiftungen bemüht. In einer weiteren Veröffentlichung an anderem Ort wird der Neugierige finden, was er hier vergeblich sucht<sup>2</sup>. En attendant mag er im *Dizionario biografico degli Italiani* die vor zwei Jahren erschienene, überaus kundige biographische Notiz von Francesca Vaglianti lesen. Im Übrigen kann nichts die Lektüre des Originaldokuments ersetzen. Hören wir also ohne weitere Umschweife die Stimme des Doctor utriusque juris Raimondo de Marliano, wohl 65 Jahre alt, sechs Monate vor seinem Tod.

<sup>1</sup> Geplant war eine gemeinsam mit Klaus Voigt (Berlin) verfaßte Abhandlung, die nicht zustande kam. Ihm sei für die freigebige Mitteilung von Kopien und Abschriften gedankt, damals und jetzt.

<sup>2</sup> Die Darstellung, auf die im folgenden gelegentlich schon verwiesen wird, soll in der Revue *Belge de Philologie et d'Histoire* erscheinen.

Mecheln, 18. März 1475

A<sup>1</sup>: (Eigenhändiges?) Papierheft mit den Testamentsbestimmungen (s. die notarielle Vorbemerkung: *quendam quaternum pappireum*): verloren.

A<sup>2</sup>: Notarielle Ausfertigung in mehreren Exemplaren (s. die Beglaubigung am Schluß: *plura instrumenta*): verloren.

B: Unbeglaubigte Abschrift von einer einzigen Hand in Form eines ehemals zweimal gefalteten Papierhefts von 14 nicht foliierten Blättern, von denen alle bis auf Bl. 1v beschrieben sind. Fol. 1r und 14v dienten als Deckblätter. Höhe: ca. 29 cm, Breite ca. 20 cm: Lüttich, Archives de l'État à Liège, Cathédrale Saint-Lambert, Chartrier, Nr. 1537.

Auf dem vorderen Deckblatt, fol. 1r, auf Mitte: *Testamentum celeberrimi juris utriusque doctoris domini Raymondi de Marliano Mediolanensis* (zeitgen.) - Am unteren rechten Rand: *ad manus domini Jo[anni] Beletori* (?) (etwas spätere Hand, Anf. 16. Jh.). Außerdem moderne Inventarsnotizen und Stempel.

Auf dem hinteren Deckblatt, fol. 14v, überzwerch. Rechts oben auf Mitte: N<sup>o</sup> 5 (19. Jh.).

- Darunter auf Mitte: *Copia testamenti celeberrimi utriusque juris doctoris domini Raymondi de Marialno* [sic] *per quod capitulum Leodiensis potest presentare unum juvenem ad Collegium de Marliano Papie institutum, fundatum et erectum* (zeitgen.).

- Darunter auf Mitte: *Capsa lxij<sup>a</sup>* (zeitgen.). - Darunter auf Mitte: *Privilegium de Marliano* (zeitgen.). Links oben auf Mitte: *Bursa* (18. Jh.). - Darunter auf Mitte: *Copia testamenti q(uondam) Domini Raijmundi de Marliano juris utriusque Doctoris quo legat Capitulo potestatem nominandi unum juvenem ad unam bursam in Collegio Marliano in Civitate Papie fundato et erecto* (18. Jh.). - Darunter auf Mitte: *Capsa 50 2<sup>di</sup> armaris* (18. Jh.). - Am linken Rand moderne Datumsnotiz.

Nordalpine Schrift, zeitgenössisch, mit vielen Kürzungen. Auffälligerweise sind die Eigennamen der Zeugen derart verschrieben, dass auf einen gänzlich uninformierten Kopisten geschlossen werden muß. Am Rand mehrfach der als Monogramm gestaltete Vermerk «NOTA», zumeist verbunden mit einer zeigenden Hand (wohl schon dem 16. Jh. angehörig), bei § 12 (betr. das Domkapitel von St. Lambert) zeitgenössischer Hinweis eines dritten Schreibers. Gelegentliche Abschreibebefehle wurden vom Kopisten selbst korrigiert, die wichtigeren sind nachgewiesen. Die Absatzzeileitung folgt der Vorlage. Das Instrument ist nicht im Osterstil von Cambrai sondern im Lütticher Weihnachtsstil datiert.

C: Die §§ 7 und 19 sind auf fol. 13r-v in einer Urkunde über die Malastalla-Stiftung vom 15. April 1477 aufgenommen worden (zeitgen. notariell beglaubigte Abschrift auf Pergament: Mailand, ALPE, Carità e aggregati, Luoghi pii aggregati. Malastalla, Registri, 1, fol. 13r-16r, auch hier mehrfach zeigende Hände am Rand, zeitgen.) und werden hier zur Textherstellung herangezogen, ohne irrelevante Unterschiede der Schreibung und Wortstellung zu berücksichtigen. Im Vergleich stellt sich die Lütticher Kopie als nicht durchweg verlässlich bei der Auflösung der Abkürzungen heraus; sie läßt auch die eine oder andere Präzision aus: die lune *in mane*, *plaustrum vini boni*, *La Uarda/Varda* und nicht *La Guarda*.

Regest: *Cartulaire de l'église Saint-Lambert de Liège*, hg. v. É. Poncelet, Bd. 5, Brüssel 1913, S. 198, Nr. 3065 (nach Lüttich).

Zeitgen. Erw.: präsentiert am 4. Aug. 1476 in Mailand durch den Universalerben Giovanni Francesco de Marliano (lt. Erw. in der o. unter C erwähnten Urk. von 15. April 1477) und angefordert in Dole 1490 (J. Theurot, *Dole, capitale du comté de Bourgogne au tournant des XV<sup>e</sup> et XVI<sup>e</sup> siècles, d'après les délibérations municipales, mai 1493 - février 1509*, in *La Franche-Comté à la charnière du Moyen Âge et de la Renaissance, 1450-1550*, hg. v. P. Delsalle, Besançon 2003, S. 71-106, hier S. 87f.; J. Theurot und S. Bépoix, *Lombards et autres Italiens dans le comté de Bourgogne, entre XIII<sup>e</sup> et XVI<sup>e</sup> siècle*, in «Publications du Centre Européen d'Études Bourguignonnes», 49, 2009, S. 159-203, hier S. 188).

Gelehrte Erw.: A. Grunzweig, *Un plan d'acquisition de Gênes par Philippe le Bon (1445)*, in «Le Moyen Âge», 42 (1932), S. 81-110, hier S. 103 mit Anm. 2; W. Paravicini, *Zur Biographie von Guillaume Hugonet, Kanzler Herzog Karls des Kühnen*, in *Festschrift für Hermann Heimpel*, Bd. 2, Göttingen 1972, S. 443-481, erneut in Ders., *Menschen am Hof der Herzöge von Burgund*, hg. v. K. Krüger, H. Kruse und A. Ranft, Stuttgart 2002, S. 107-142, hier S. 112, Anm. 39; R. Walsh, *The coming of humanism*, in «Humanistica Lovaniensia», 25 (1976), S. 146-197, hier S. 167, Anm. 83; A. und W. Paravicini, *L'arsenal intellectuel d'un homme de pouvoir: les livres de Guillaume Hugonet, chancelier de Bourgogne*, in *Penser le pouvoir au Moyen Âge (VIII<sup>e</sup>-XV<sup>e</sup> siècle). Études d'histoire et de littérature offertes à Françoise Autrand*, hg. v. D. Boutet und J. Verger, Paris 2000, S. 261-325, erneut in Ders., *Menschen am Hof der Herzöge von Burgund*, Stuttgart 2002, S. 143-208, hier S. 175f. (alle nach Lüttich).

[Notarielle Vorbemerkung]

In nomine Domini. Amen. Per hoc presens instrumentum publicum cunctis pateat evidenter et sit notum, quod anno a nativitate eiusdem Domini millesimo quadringentesimo septuagesimo quinto, indictione octava, die xviii mensis marci circa meridiem, pontificatus sanctissimi in Christo patris et domini nostri, domini Sixti divina providentia pape quarti anno quarto, in mei notarii publici testiumque infrascriptorum ad hoc specialiter vocatorum et rogatorum presentia constitutus, eximius et spectabilis vir dominus magister Raymundus de Marliano, in utroque jure doctor, licet viribus corporis debilis accedens ante lectum suum, tamen sensuum suorum tam exteriorum quam interiorum per Dei gratiam, ut apparebat, per omnia bene compos existens, considerans, quod homo in hac valle miserie<sup>3</sup> positus fragilis condicionis existat ac immensis subiaceat periculis et quod dies hominis sint breves et quod humanitas ad mortem, qua nil certius eiusque hora nil incertius existit<sup>4</sup>, semper dignoscitur esse prona, volens igitur interim, quod ratio mentem eius regit, anime sue saluti providere et diem exitus sui ordinatione salubri prevenire, ne extrema die ipsum capiat intestatum seu minus provisum de bonis suis transitoriis sibi a domino Deo, summorum bonorum largitore super terram benigniter collocatis, que inordinata relinquere noluit, habens et exponendo tenens in suis manibus quandam quaternum pappireum, in quo dictus magister Raymundus de Marliano testator suum condidit atque conscribi fecit testamentum nuncupativum<sup>5</sup> seu ultimam voluntatem // [fol. 2v], quem quidem quaternum ipse dedit ibidem alta et intelligibili voce legi, de quo quidem quaterno papirio infrascripta annotata conscripsi et extraxi:

In nomine Dei omnipotentis tociusque curie celestis. Amen. Hoc est testamentum seu ultima voluntas vel codicillus seu donatio mei Raymundi de Marliano, juris utriusque doctoris, quod et quem volo habere vim et effectum tamquam testamentum seu ultima voluntas vel codicillus aut donatio causa mortis et omnibus aliis melioribus jure, modo, via et forma quibus valere potest et poterit, sive jure civili, sive de equitate canonica, sive quocumque alio modo.

[Das voliegende Testament ist das einzige und einzig gültige]

[1] Item, protestor et declaro quod numquam aliquod testamentum feci nec aliquam ultimam voluntatem seu dispositionem, et si illud vel illam me deinceps fecisse constaret, revoco illud et illam, et volo hoc presens testamentum seu ultimam voluntatem habere et sortiri plenum et omnimodum effectum.

[Die Testamentsexekutoren Guillaume Hugonet und Jean Carondelet und ihre Rechte<sup>6</sup>]

<sup>3</sup> Vgl. Psalm 84, 7.

<sup>4</sup> Dies der grundlegende Topos fast jeder Testamentserrichtung.

<sup>5</sup> Sein mündliches Testament.

<sup>6</sup> Vgl. unten § 19, 20a und h, 29, 38, 39, 41d-e.

**[2]** Item, **[a]** executores presentis mei testamenti seu ultime voluntatis presentis bonorum et rerum in quovis loco citra montes<sup>7</sup> existencium et michi quomodolibet competentium seu competere debentium necnon et pecuniarum michi debitum ac quorumcumque iurium et bonorum mobilium seu immobilium, presentium et futurorum, eligo honorabilissimos dominos meos Guelmum Hugoneti, dominum de Saylant et d'Espoyse, militem et cancellarium domini ducis Borgundie<sup>8</sup> et Brabancie etc.<sup>9</sup>, ac dominum Johannem Charundileti, militem, dominum de Campvans, primum presidentem supreme curie parlamentorum dicti domini ducis in Machlinia<sup>10</sup>, et quemlibet eorum in solidum, et supplico eisdem, quod omnis huiusmodi executionis dignentur // [fol. 3r] in se acceptare et per se vel alios a se deputandos exequi, facere et mandare. **[b]** In quorum dominorum executorum manibus pono et delibero realiter et omni meliori modo via jure, quibus possum, predicta omnia bona mea mobilia et immobilia, pecunias michi debitas ac jura et nomina debitorum et quidquid aliud bonorum seu rerum nomine largissime comprehendi seu intelligi, prout maxime in materia favorabili seu testamentaria, presertim existentes citra montes, dans et concedens eisdem in predictis bonis omnem liberam et plenissimam administrationem et dispositionem pro predicta executione facienda, ita quod sine here-de meo infrascripto<sup>11</sup> et absque eius monitione, citatione vel interpellatione possint quomodocumque eis videbitur ad dictam executionem procedere ipsamque continuare et perficere per se ipsos et eorum propria auctoritate, nullo alio vocato vel expectato. **[c]** Volo etiam ac expresse declaro atque concedo, quod si aliquis ex meis executoribus voluerit aliquid ex dictis meis bonis emere justo precio, sive sint mobilia, sive immobilia, hoc sibi liceat facere ita, quod dictus suus coexecutor possit sibi huiusmodi venditionem libere facere, interveniente reali muneratione precii iusti, nec ad hoc requiratur vocatio, monitio vel interpellatio heredis mei infrascripti<sup>12</sup> vel cuiuscumque alterius.

[Begräbnis]

**[3]** Item, eligo sepulturam meam in cimiterio majoris et solemnioris ecclesie et pro tali communiter reputate oppidi, burgi vel castri, in quo vel cuius territorio me decedere contingerit, absque quod super eam lapis vel alia inscriptio [ponitur]<sup>13</sup>, ut statim // [fol. 3v] hoc corruptibile suam inducat corruptionem; et quod in huiusmodi sepultura nulla penitus aut servetur solemnitas aut convocatio populi at aliarum personarum.

**[4]** Item, volo corpus meum post mortem lavari et ordinari ac in lintiamine poni per meos servitores et familiares domesticos commensales, qui michi servierunt et me curaverunt ac vigilaverunt in infirmitate de qua moriar. Quodque dicti familiares mei tantum et non alii deferant corpus meum sine solemnitate ad ecclesiam, et post officium ab ecclesia ad sepulturam, et quod ipsimet et non alii corpus meum in fovea per alios fienda ponant ac ipsimet desuper et non alii propriis manibus terram et lapidem jaceant et reponant, et sic me inhumant.

<sup>7</sup> Diesseits der Alpen.

<sup>8</sup> Hugoneti ... Borgundie mit Verweiszeichen am rechten Rand, anstelle von Borgoni dominum de Hugoneth (nicht gestrichener Zeilensprung).

<sup>9</sup> Guillaume Hugonet aus Mâcon in Burgund (Frankreich, dépt. Saône-et-Loire), s. § 17 und 27 und zur Person Paravicini 1972/2002 und 2000/2002. Saillant: dépt. Saône-et-Loire, arr. und cant. Charolles, com. Viry; Époisses: dépt. Côte-d'Or, arr. Montbard, cant. Semur-en-Auxois. Hugonet nannte sich Herr von Époisses erst ab 1474.

<sup>10</sup> Jean Carondelet aus Dole in der Franche-Comté, s. § 18 und zur Person A.J.M. Kerckhoffs-De Hey, *De Grote Raad en zijn functionarissen 1477-1531. Biografieën van Raadsheren*, Amsterdam 1980, S. 38-42; Theurol 1998, S. 288-293; H. Cools, *Mannen met macht. Edellieden en de Moderne Staat in de Bourgondisch-Habsburgse landen (1475-1530)*, Zutphen 2001, S. 183-185, Nr. 45, mit weiterer Lit. - Champvans-lès-Dole, Frankreich, dépt. Jura, arr. und cant. Dole, erst 1474 erworben.

<sup>11</sup> Unten § 23.

<sup>12</sup> Unten § 23.

<sup>13</sup> Das Verb wurde vom Kopisten ausgelassen und hier mutmaßlich ergänzt.

[5] Item, supplico predictis meis servitoribus et familiaribus domesticis commensalibus et cuilibet ipsorum, quod in ceris seu tedis<sup>14</sup> aut luminaribus vel vestibus lugubribus, insignis aut armis vel et in multitudine misarum seu conviviis seu aliis rebus similibus non faciant impensam aliquam, nec eciam in elemosinis publice dandis, nam quo ad missas, divina officia et elimosinas aliunde provisum est<sup>15</sup>.

[Bestätigung der Meßstiftung Missa Innocentium im Dom zu Mailand. Sollte der Erbe diese Stiftung anfechten, gehe er zugunsten der Schwestern des Erblassers des Erbes verlustig]

[6] Item, confirmo fundationem per me imprime factam in ecclesia maiori Mediolani, quod dicitur domus Nostre Domine, in qua cotidie laboratur, que fundatio est unius misse perpetue cotidiane dicende alta voce in dicta ecclesia per unum cappellanum et sex pueros qui dicuntur innocentes, et sic vocatur *missa innocencium*<sup>16</sup>; et mando quod infrascriptus heres meus<sup>17</sup> in ipsa<sup>18</sup> eius assignatione non faciat difficultatem nec eciam impediat aut retardet per se vel alium, nunc vel infuturum, alias ipsum universalitate mea privo et in ea institutio sorores meas // [fol. 4r] Valentinam et Juliam<sup>19</sup> equalibus portionibus, ita quod uni<sup>20</sup> decedenti sine liberis masculis, alia succedat universitate in dicta hereditate mea, casu predicto.

[Die Stiftung für die Gefangenen im Kerker der Malastalla zu Mailand]

[7] <sup>21</sup>Item, [a] lego presoneriis seu carceratis nunc vel pro tempore et quomodocumque<sup>22</sup> existentibus et detentis in carcere publico civitatis Mediolani que dicitur Malastalla<sup>23</sup>, tredecim modia mixture<sup>24</sup> sichalis et milii<sup>25</sup> ad mensuram Mediolensem distribuenda<sup>26</sup>, videlicet qualibet<sup>27</sup> die lune anni duos sestarios<sup>28</sup> in pane cocto inter predictos carceratos necnon unum plastrum vini boni<sup>29</sup> sex brentarum mesure Mediolanensis distribuendos<sup>30</sup>, videlicet omni die lune in mane<sup>31</sup> presoneriis et carceratis, scilicet duodecim bocalia vel circa pro quibuslibet<sup>32</sup> tredecim modiis et plastris<sup>33</sup> vini et cocturam dicti panis. [b] Ac reliquiis expensis relinquo dicto carceri seu carceratis ac presoneriis sive administratoribus<sup>34</sup> bona ipsorum carceratorum vigintiquinque florenos Mediolani monete singulis annis, sine difficultate percipiendos<sup>35</sup> per eos

<sup>14</sup> Fackeln.

<sup>15</sup> Siehe § 6 (Missa Innocentium) und 34 (Jahrtag bei den Bettelordenskirchen in Mailand).

<sup>16</sup> Zu dieser Stiftung im weiter im Bau befindlichen Mariendom zu Mailand s. künftig die Darstellung, Kap. 3.1 und 5.1.

<sup>17</sup> Unten § 23.

<sup>18</sup> Am linken Rand NOTA mit zeigender Hand.

<sup>19</sup> Dieselben auch § 22, (23) und 24. Es ist einstweilen nichts weiter über sie bekannt.

<sup>20</sup> Sic Ms. Folgt gestrichen des.

<sup>21</sup> Dieser § und § 19 sind auch in fol. 13r-v der Urkunde über die Bestätigung der Malastalla-Stiftung vom 15. April 1477 enthalten, s. die Vorbemerkung.

<sup>22</sup> quomodocumque Urkunde vom 15. April 1477.

<sup>23</sup> Die Malastalla, das wichtigste Gefängnis Mailands, befand sich in unmittelbarer Nähe zum Broletto (vgl. unten § 29). Zu ihr s. künftig die Darstellung, Kap. 3.2 und 5.2.

<sup>24</sup> Mesture Urkunde vom 15. April 1477.

<sup>25</sup> Eine Mischung von Roggen (*sigalum*) und Hirse.

<sup>26</sup> distribuendos Urkunde vom 15. April 1477.

<sup>27</sup> qualibus Urkunde vom 15. April 1477.

<sup>28</sup> sestarios aus sestadios (?) verbessert; sextarios Urkunde vom 15. April 1477.

<sup>29</sup> boni nur in der Urkunde vom 15. April 1477: Eine Fuhre guten Weins.

<sup>30</sup> distribuendas Ms., Mediolani distribuendos Urkunde vom 15. April 1477.

<sup>31</sup> in mane nur in der Urkunde vom 15. April 1477.

<sup>32</sup> Vor quibuslibet gestrichen qualibet; nur quibus Urkunde vom 15. April 1477.

<sup>33</sup> plastro Urkunde vom 15. April 1477.

<sup>34</sup> aministrantibus Urkunde vom 15. April 1477.

<sup>35</sup> percipiendis Ms., difficultate percipiendos Urkunde vom 15. April 1477.

ac levandos ex terra et possessione mea de La Guarda<sup>36</sup> sita in plebe Marliani ducatus Mediolani<sup>37</sup> et empta meis propriis denariis, ut constat per publicum instrumentum super hoc rogatum et traditum per dominum<sup>38</sup> Petrum Mottam procuratorem causarum in palatio Mediolani<sup>39</sup>. **[c]** Et si<sup>40</sup> quovismodo dicti xxv floreni non possint recepi nec haberi aut levari nunc vel in futurum aliquo tempore vel in perpetuum ex fructibus dicte terre et possessionis de La Guarda, et prius solutis annuatim denariis omnibus per me ordinatis et assignatis super dicta terra et<sup>41</sup> possessione pro<sup>42</sup> fundatione dicte misse // [fol. 4v] innocencium,<sup>43</sup> tunc et eo casu volo, quod vigintiquinque floreni predicti intelligantur assignati et accipiantur et levantur super omnibus aliis<sup>44</sup> et singulis bonis meis paternis et maternis sive etiam acquisitis ex dinariis meis, tam in civitate Mediolani quam in territorio<sup>45</sup> burgi de Marliano<sup>46</sup> necnon in territorio burgi de Trizio plebis Pontiroli ducatus Mediolani<sup>47</sup>, ita et taliter quod dicti vigintiquinque floreni omnino annuatim solventur<sup>48</sup> predictis carceratis seu carceri seu deputatis ad regimen ipsorum bonorum carceratorum. **[d]** Et huiusmodi solutio vigintiquinque florenorum semper et continue<sup>49</sup> annuatim fiat<sup>50</sup> per heredem meum infrascriptum<sup>51</sup> vel per tenentes dicta bona<sup>52</sup> in festo Omnium Sanctorum<sup>53</sup>, et ad hoc specialiter et expresse obligo, ipotecho, affecto et onero dictam terram et possessionem de La Guarda<sup>54</sup> et singula bona mea paterna, materna et acquisita, sita et consistentia<sup>55</sup> in locis de quibus supra.

[Die Studienstiftungen:]<sup>56</sup>  
[1. Mailand: Juristen]

**[8]** Item, volo quod domini de Collegio Jurisperitorum Mediolani, de quorum ordine et numero fui<sup>57</sup>, eligant et nomen omnes insimul vel maior pars eorum in camera fabrice ecclesie maioris Mediolani<sup>58</sup> vel una ex sacristiis dicte ecclesie unum juvenem,

<sup>36</sup> Uarda/Varda *Urkunde vom 15. April 1477*).

<sup>37</sup> Mariano Comense, Prov. Como. La Guarda/Varda wohl La Guardia, Gem. Carugo, Prov. Como, nō. von Mariano. Vgl. § 7c, 32.

<sup>38</sup> d(ominum) *verbessert aus p[etrum]*.

<sup>39</sup> Der Kaufvertrag ist nicht nachgewiesen. Zum Notar Pietro Motta s. auch § 29, 36, 41c.

<sup>40</sup> *An dieser Zeile si ... recipiant am linken Rand NOTA, am rechten NOTA mit zeigender Hand.*

<sup>41</sup> *terra et nur Urkunde vom 15. April 1477.*

<sup>42</sup> *Anstatt pro in der Urkunde vom 15. April 1477 et.*

<sup>43</sup> Siehe o. § 6 und unten § 19, wo aber nicht von der Anweisung auf La Guarda die Rede ist.

<sup>44</sup> *aliis nur Urkunde vom 15. April 1477.*

<sup>45</sup> *So Urkunde vom 15. April 1477, terrarum Ms.*

<sup>46</sup> Siehe o. § 7b (mit Anm.) und unten § 32.

<sup>47</sup> Siehe auch unten § 32. Trezzo sull'Adda, Prov. Mailand, die bedeutende mailändische Grenzfestung an der Adda gegen die venetianische Terra Ferma, und Pontirolo, jenseits der Adda in der Prov. Bergamo.

<sup>48</sup> *solvantur Urkunde vom 15. April 1477.*

<sup>49</sup> *Am linken Rand NOTA mit zeigender Hand.*

<sup>50</sup> *fiet Urkunde vom 15. April 1477.*

<sup>51</sup> Unten § 23.

<sup>52</sup> *vel per tenentes dicta bona Urkunde vom 15. April 1477; vel dicta pertinentes bona mea Ms.*

<sup>53</sup> 1. November.

<sup>54</sup> Uarda/Varda *Urkunde vom 15. April 1477.*

<sup>55</sup> *So Urkunde vom 15. April 1477; constituta Ms.*

<sup>56</sup> Hierzu künftig die Darstellung, Kap. 3.3 und 5.3.

<sup>57</sup> Der Eintritt in das vornehme Juristenkolleg von Mailand datiert vom 14. Sept. 1438: *Dominus Johannes Petrus de Malletis, iuris utriusque doctor, filius D. Dyonixii, et dominus Raymondus de Marglano iuris utriusque doctor, filius D.* [nicht ausgefüllt] *intraverunt [...] MCCCCXXVIII, indicione prima, die quartodecimo mensis septembris.* Aus der Matrikel des Collegio dei Giuristi bei [John Seton], *Theatrum equestris nobilitatis secundae Romae seu chronicon insignis collegii jurisperitorum, iudicum, equitum et comitum inclytæ civitatis Mediolani, Johanne Sitonis de Scotia*, Mailand 1706, S. 45, Nr. 162 (ex inf. Klaus Voigt, Berlin). Es ist nicht bekannt, wann die Mitgliedschaft endete.

<sup>58</sup> Der Kammer der Kirchenfabrik im Dom zu Mailand.

qui saltem atigerit decimumquintum annum, oriundum ex civitate Mediolani vel suburbii eiusdem, ac ex legitimo matrimonio natum, sufficienter fundatum in gramatica et prima facie aptum ad studendum in iure civili vel canonico, filium<sup>59</sup> alicuius ex dictis jurisperitis in dicto collegio aptum residentis, presertim pauperiorem qui non possit sic faciliter in studio generali<sup>60</sup> per patrem sustentari. Quodque dicto juveni taliter electo ac huiusmodi qualificato ac in studio generali //[[fol. 5r]<sup>61</sup> recidenti singulis annis solvantur super dictis bonis paternis, maternis sive eciam acquisitis ut supra usque ad quinquennium continue vigintiquinque florenos monete Mediolani in festo Omnium Sanctorum pro sustentatione eius in studio ita et taliter, quod si huiusmodi electus non residiat in studio generali vel moriatur ante finem dicti quinquennii, statim et sine mora dicti domini jurisperiti vel maior pars eorum procedant ad electionem alterius juvenis sic qualificati et studere proponentis in studio generali et in altero dictorum jurum.

[2. Mailand: Mediziner]

**[9]** Item, volo quod domini de Collegio Fisicorum seu Medicorum Mediolani<sup>62</sup> eligant et nominent unum juvenem, saltem qui attigerit decimumquintum annum, oriundum ex civitate Mediolani<sup>63</sup> sive suburbii et natum ex legitimo matrimonio ac filium alicuius ex dictis dominis sive medicis, presertim pauperiorem et aptum prima facie ad studendum in artibus et medicina in studio generali ac sufficienter fundatum in gramatica; quam electionem seu nominationem faciant continuis perpetuis temporibus, ipsi vel maior pars eorum, in camera fabrice ecclesie Mediolani vel in una ex sacraistiis dicte ecclesie. Cui sic<sup>64</sup> nominato et electo volo super bonis meis predictis solvi annuatim usque ad quinquennium, quo steterit et studuerit in altra dictarum facultatum in studio generali, vigintiquinque floreni monete Mediolani in festo Omnium Sanctorum; et si dictus juvenis decederit ante perfectum dictum quinquennium vel studere in altra dictarum facultatum vel in studio generali rescidere desisterit, //[[fol. 5v] statim procedatur per dictos dominos ad electionem alterius juvenis sic qualificati et cum modis et formis de quibus supra.

[3. Mailand: sechs Bettelklöster, Juristen, Mediziner, Domfabrik, Domkapitel, Erzbischof]

**[10]** Item, volo quod conventus Fratrum Predicatorum Mediolani, videlicet qui dicitur Sancti Eustorgii<sup>65</sup>, et conventus Fratrum Minorum Sancti Francisci<sup>66</sup> et conventus Fratrum Heremitarum Sancti Marci<sup>67</sup> et conventus Sancte Marie de Monte Carmello<sup>68</sup> et conventus Sancte Marie Servorum qui dicitur de Sacho<sup>69</sup> et conventus Sancti Petri Celestini Mediolani<sup>70</sup> seu maior pars cuiuslibet conventuum<sup>71</sup>, eligant et nominent

<sup>59</sup> filium ex Ms.

<sup>60</sup> studium generale = Universität.

<sup>61</sup> *An dieser Zeile recidenti ... bonis links eine zeigende Hand (mit anderer Ornamentik als sonst), rechts NOTA mit zeigender Hand (das übliche Modell).*

<sup>62</sup> Eine Mitgliedschaft Marlianos ist nicht bezeugt.

<sup>63</sup> *Folgt gestrichen filium.*

<sup>64</sup> *Verbessert aus sit.*

<sup>65</sup> Die Dominikanerkirche S. Eustorgio, außerhalb der Mauer im Süden der Stadt. Dort befindet sich die berühmte, 1462-1469 errichtete Kapelle der Portinari, zu welcher L. Patetta, *L'architettura del Quattrocento a Milano*, Mailand 1987, S. 119-125.

<sup>66</sup> Die Franziskanerkirche SS. Nabore e Felice, oder S. Francesco grande, innerhalb der Mauer im Westen.

<sup>67</sup> Die Augustinereremitenkirche S. Marco, außerhalb der Mauer im Norden.

<sup>68</sup> Die Karmeliterkirche S. Maria del Carmine innerhalb der Mauern im Norden.

<sup>69</sup> Die Servitenkirche S. Maria dei Servi der "Sackbrüder" innerhalb der Mauern im Osten, nahe der (in ihren alten Formen verschwundenen) Casa Marliani.

<sup>70</sup> Die Coelestinerkirche S. Pietro Celestino, hart außerhalb der nordöstlichen Mauer.

<sup>71</sup> Die sechs Konvente werden auch § 34 bedacht.

unum juvenem, religiosum vel secularem, qui saltem attigerit quintumdecimum annum, sufficientem gramaticum, aptum ad studendum in artibus et theologia, oriundum ex civitate Mediolani vel suburbiis et de legitimo matrimonio natum. Cuiusquidem juvenis fiet electio hoc modo: Fiat in camera fabrice Mediolani sive in una ex sacraistiis dicte ecclesie; videlicet dicti sex conventus simul sive deputati ipsorum illis intervenientibus habebunt suas voces in dicta electione; et domini de Collegio Jurisperitorum Mediolani seu maior pars eorum vel deputati ipsorum aliam vocem; et domini medici sive fisici Collegii Mediolani seu maior pars eorum vel deputati ab ipsis<sup>72</sup> habebunt aliam vocem; et domini deputati ad fabricam ecclesie Mediolani pro tempore habebunt aliam vocem; et domini de capitulo maioris dicte maioris ecclesie, qui vocantur ordinarii, habebunt aliam vocem; et dominus archiepiscopus Mediolani seu eius vicarius generalis in spiritualibus et temporalibus vel sede vacante vicarius generalis in spiritualibus // [fol. 6r] vel in temporalibus dicti capituli habeant aliam vocem. Ita quod sive electio fiat a predictis concorditer et unanimiter de persona unius, sive etiam discordent, ille reputetur legitime electus, qui ab omnibus unanimiter vel a maiori parte dictarum vocum fuerit electus, que quidem voces, ut aparet ex predictis, sunt undecim. Et huiusmodi electio<sup>73</sup> septenio continuo quo steterit et studuerit in studio generali in artibus et theologia volo dari et solvi annuatim ex predictis redditibus bonorum meorum predictorum vigintiquinque florenos monete Mediolani in festo Omnium Sanctorum. Et si dictus electus ante finitum dictum septenium decederit, statim per habentes dictas undecim voces de quibus supra, in altero ex locis predictis procedatur ad electionem alterius eodem modo qualificati ut supra servatis in omnibus forma et modis superscriptis.

[4. Besançon]

[11] Item, volo quod domini de capitulo ecclesie Bisumtine<sup>74</sup> seu maior pars eorum imperpetuum eligant unum juvenem qui attigerit decimumquintum annum, oriundum ex civitate Bisumtina sive suburbiis eiusdem, legitime natum, sufficientem in gramatica instructum et prima facie aptum ad studendum in studio generali in legibus vel jure canonico aut medicina. Cui sic nominato et electo volo super bonis meis predictis solvi annuatim usque ad quinquenium, quo steterit et studuerit in altera dictarum facultatum in studio generali, vigintiquinque florenos monete Mediolanensis in festo Omnium Sanctorum. Et si dictus juvenis decederit ante perfectum dictum quinquenium vel studere in altra dictarum facultatum in studio generali residere desisterit, statim procedatur per dictos dominos ad electionem alterius // [fol. 6v] juvenis sic qualificati cum modis et formis de quibus supra.

[5. Lüttich]

[12] Item<sup>75</sup>, volo quod domini de capitulo ecclesie Leodiensi<sup>76</sup> similiter eligant et nominent unum [juvenem]<sup>77</sup> oriundum ex civitate Leodiensi seu suburbiis eiusdem, qualificatum in omnibus ut supra proxime et prima facie aptum ad studendum in legibus, jure canonico aut medicina. Cui sic electo volo solvi annuatim usque ad quinquenium in festo Omnium Sanctorum vigintiquinque floreni monete Mediolani in predictis redditibus bonorum meorum predictorum ut supra.

<sup>72</sup> ab ipsos *korrigiert*.

<sup>73</sup> electio *Ms.* 132

<sup>74</sup> Domkapitel Saint-Jean in Besançon, Frankreich, dép. Doubs. Marliano war dort 1471 Domherr ohne, 1473 mit Präbende geworden, s. H. Hours, *Diocèse de Besançon*, Turnhout 1999 (Fastes ecclesiae gallicanae, 4), S. 210f., Nr. 243.

<sup>75</sup> *Am linken Rand von einer Hand des 15. Jh.s* Nota concernit capitulum Leodiensem.

<sup>76</sup> Domkapitel von Saint-Lambert in Lüttich, Belgien, Prov. Lüttich. Marliano war dort seit 1468 Domherr, s. J. de Theux de Montjardin, *Le chapitre de Saint-Lambert à Liège*, Bd. 2, Brüssel 1871, S. 302 und 306-308.

<sup>77</sup> Das Wort wurde vom Kopisten ausgelassen und hier ergänzt.



[6. Tournai]

[13] Item, volo similiter quod domini de capitulo Tornacensi<sup>78</sup> imperpetuum eligant et nominent aliquem juvenem oriundum ex civitate Tornacensi seu suburbiis eiusdem, qualificatum ut supra proxime, prima facie aptum ad studendum in legibus, jure canonico vel medicina. Cui volo annuatim<sup>79</sup> in festo Omnium Sanctorum ex fructibus et redditibus bonorum meorum predictorum persolvi vigintiquinque floreni monete Mediolani durante quinquenio quo in studio generali residerit et studuerit in altera dictarum facultatum. Et si ante perfectum quinquennium decederit, statim per dictos dominos procedatur ad electionem alterius juvenis qualificati ut supra et cum modis et formis ut supra.

[6. Cambrai]

[14] Item, volo et ordino quod domini de capitulo Cameracensi<sup>80</sup> imperpetuum eligant et nominent unum juvenem oriundum ex civitate Cameracensi vel suburbiis eiusdem, qualificatum ut supra proxime et prima facie aptum<sup>81</sup> ad studendum in legibus vel jure canonico vel medicina in studio generali. Cui sic electo volo annuatim durante quinquenio in festo Omnium Sanctorum persolvi vigintiquinque floreni monete Mediolani //[[fol. 7r] ita et taliter, quod si ante perfectum quinquennium decederit vel in studio generali studere vel residere destiterit, statim per dictos dominos procedatur ad electionem ut supra et cum modis et formis ut supra.

[7. Universität, Stiftskapitel St. Peter und Stadt Löwen]

[15] Item, volo et ordino quod Universitas Lovaniensis et capitulum Sancti Petri Lovaniensis et consules et consilium oppidi Lovaniensi[s]<sup>82</sup> in perpetuum eligant et nominent, simul faciendo tres voces seu duas partes ex dictis tribus vocibus, unum juvenem oriundum ex oppido Lovaniensi seu suburbiis eiusdem, qualificatum ut supra proxime et prima facie aptum ad studendum in legibus, jure canonico vel medicina. Cui sic electo volo persolvi annuatim durante quinquennio, quo in studio generali in altra ex dictis facultatibus studuerit, in festo Omnium Sanctorum vigintiquinque floreni monete Mediolani. Ita, quod si non perfectum dictum quinquennium decederit vel in studio generali residere<sup>83</sup> et in altra dictarum facultatum studere destiterit, statim per dictos dominos de Universitate et ecclesia Sancti Petri predicti necnon per consules seu consiliarios dicti oppidi procedatur ad electionem alterius qualificati, modis et formis de quibus supra.

[8. Universität, Stiftskapitel Notre-Dame und Stadt Dole in der Freigrafschaft Burgund]

[16] Item, volo quod Universitas Dolana et domini de capitulo Nostre Domine Dolane necnon domini de consilio oppidi Dolani in comitatu Borgundie<sup>84</sup>, faciendo tres voces seu in discordia duo ex dictis tribus vocibus, imperpetuum eligant et nominent unum juvenem oriundum ex Dolana sive suburbiis eiusdem, qualificatum ut supra, prima

<sup>78</sup> Domkapitel von Notre-Dame in Tournai, Belgien, Prov. Hennegau. Es nicht bekannt, dass Marliano dort Domherr gewesen wäre.

<sup>79</sup> annuatim mit *Verweiszeichen am rechten Rand*.

<sup>80</sup> Domkapitel von Notre-Dame in Cambrai, Frankreich, dép. Nord. Vom einem Kanonikat Marlianos ist nicht bekannt.

<sup>81</sup> aptum *interlinear hinzugefügt*.

<sup>82</sup> Leuven, Belgien, Prov. Brabant. Ein Kanonikat an der Stiftskirche St. Peter ist nicht belegt, doch wurden die Löwener Universitätsprofessoren, deren Marliano 1461-1463 und 1473-1475 einer war, des öfteren auf diese Weise finanziert.

<sup>83</sup> *Vor* residere *gestrichen* studere.

<sup>84</sup> Dole, Frankreich, dép. Jura, in der Freigft. Burgund. Marliano von spätestens von 1441 an bis 1461 Professor in Dole.

facie aptum ad studendum in studio generali in legibus, iure canonico vel medicina. // [fol. 7v] Cui volo annuatim in festo Omnium Sanctorum<sup>85</sup> durante quinquenio persolvi, in quo altera dictarum facultatum in studio generali residenti studuerit, viginti-quinque floreni monete Mediolani ita et taliter, quod si ante perfectum quinquenium defecerit sive in studio generali residere et in altera dictarum facultatum studere destiterit, statim dicti domini de Universitate, ecclesie [et]<sup>86</sup> de oppido procedant ad electionem alterius sic qualificati, modis et formis de quibus supra.

[9. Der Kanzler Hugonet und dessen direkte männliche und legitime Erben]

[17] Item, volo quod predictus dominus cancelarius, executor meus, sique heredes et successores masculi et legiptimi<sup>87</sup> ex suo corpore procreati et per rectam lineam descendentes ab illis, imperpetuum eligant et nominent unum juvenem de legitimo matrimonio natum, qualificatum ut supra<sup>88</sup>, prima facie aptum ad residendum in studio generali et studendum in legibus, iure canonico vel medicina. Cui sic electo volo annuatim in festo Omnium Sanctorum durante quinquenio, quo in studio generali et in altera dictarum facultatum studuerit, persolvi ex redditibus et fructibus dictorum meorum bonorum viginti-quinque floreni monete Mediolani taliter, quod si dictus electus ante perfectum quinquenium deceserit vel in studio generali residere et in altera dictarum facultatum studere destiterit, statim per prefatum dominum cancellarium suosque heredes descendentes qualificados ut supra procedatur ad electionem alterius qualificati, modis et formis de quibus supra.

[10. Jean Carondelet und dessen direkte männliche und legitime Erben]

[18] Item, volo quod prefatus dominus Johannes Carumdeleti, alter executor dicti mei testamenti, sique heredes et decedentes per rectam lineam ex legitimo matrimonio procreati et masculi generis, imperpetuum eligant et nominent unum juvenem de legitimo matrimonio ortum, qualificatum ut supra, // [fol. 8r] prima facie aptum ad studendum in studio generali in iure<sup>89</sup> civili, canonico vel medicina quinquenio durante. Cui sic electo volo annuatim in festo Omnium Sanctorum super redditibus et fructibus provenientibus bonorum meorum predictorum persolvi viginti-quinque floreni monete Mediolani taliter et tali modo, quod si dictus electus ante quinquenium predictum perfectum deceserit vel in studio generali residere et in altera dictarum facultatum studere destiterit, statim per dictum dominum Johannem presidentem seu eius heredes et successores qualificados ut supra procedatur ad electionem alterius sic qualificati et modis et formis quibus supra.

[Sein gesamtes Vermögen diesseit und jenseits der Alpen soll in Renten in Pavia und Umgegend angelegt werden, um seine verschiedenen Stiftungen zu sichern]

[19]<sup>90</sup> Item, volo ex pecuniis, clenodiis, mobilibus, immobilibus<sup>91</sup>, actionibus et nominibus debitorum<sup>92</sup> meorum acquietare<sup>93</sup> predicta bona mea paterna, materna et acquisita quantum erit possibile et emi redditus bonos et sufficientes ad satisfaciendum imperpetuum fundationi dicte misse innocencium et pane et vino dictorum<sup>94</sup> carcera-

<sup>85</sup> in festo Omnium Sanctorum *am linken Rand mit Verweiszeichen nachgetragen*.

<sup>86</sup> et fehlt im Ms., hier ergänzt. Man würde de ecclesia erwarten.

<sup>87</sup> Sic, wie unten § 32.

<sup>88</sup> Siehe o. § 8.

<sup>89</sup> generari in iuro Ms.

<sup>90</sup> Dieser § (und § 7) ist auch auf fol. 13v der Urkunde über die Bestätigung der Malastalla-Stiftung vom 15. April 1477 enthalten, s. die Vorbemerkung. - *Am rechten Rand* NOTA.

<sup>91</sup> immobilibus fehlt in der Urkunde vom 15. April 1477 (s. Vorbemerkung).

<sup>92</sup> predictorum Ms. und Urkunde vom 15. April 1477. Siehe aber die parallelen Stellen in § 2b, 29, 30c, 32, 41a.

<sup>93</sup> acquietare Urkunde vom 15. April 1477.

<sup>94</sup> predictorum Urkunde vom 15. April 1477.

torum necnon ex pecuniis solvendis annuatim imperpetuum dictis undecim juvenibus et<sup>95</sup> studentibus seu studere debentibus ut supra. Et quod huiusmodi redditus et proventus seu terre et possessiones<sup>96</sup> diligentia et sollicitudine executorum meorum, tam ultramontes quam citramontes existencium, acquirantur secure et<sup>97</sup> in bono loco in civitate sive diocesi Papiensi<sup>98</sup> et quantum prope dictam civitatem acquiri et emi poterunt, et quod propter predicta sint specialiter et expresse ac nominatim affecti, ypotecati, obligati et assignati<sup>99</sup> in perpetuum. // [fol. 8v]

[Stiftung des Collegio Marliano in seinen Häusern zu Pavia]<sup>100</sup>

[20] <sup>101</sup>Item, volo, [a] quod dicti juvenes<sup>102</sup> undecim per arbitrium, dispositionem et voluntatem dictorum meorum<sup>103</sup> executorum citramontanorum collocentur et habitent libere imperpetuum pro tempore predestinatum, quibus in studio generali habebunt residere et studere in altera dictarum trium facultatum<sup>104</sup> per quinquenium, necnon in theologia per septenium per illum qui eligitur per dictas undecim voces, in domo mea magna Papie, que vocatur domus Prevedini de Marliano, avi mei<sup>105</sup>, qui habet duas partes, scilicet anteriorem et posteriorem. [b] Et ad hunc usum dictam domum deputo, assigno, affecto et ordino imperpetuum in formam et ad instar collegii, quod dicitur Collegium illorum<sup>106</sup> de Castilione<sup>107</sup>. Et quod expense bonorum meorum competenter et utiliter et ad hoc ordinetur per dictos undecim juvenes imperpetuum in divinis et in humanis, eciam in moribus et sciencia servetur stilus, modus et observantia in totum et per omnia sicut servatur in dicto Collegio de Castilione, seu servari statutum fuit et ordinatum. [c] Et in dicta domo mea, que est contigua ecclesie Sancte Marie Corone<sup>108</sup>, fiat et construat<sup>109</sup> locus aptus ad liberariam, in quo omnes libri mei cuiuscumque facultatis ponantur, legentur et ordinentur pro usu dictorum juvenum undecim, nec inde quovismodo ad instanciam neque per mandatum alicuius possint quovismodo imperpetuum extrahi. [d] Quodque dicti undecim juvenes in promotionibus ad gradus quoscumque pro valde minoribus expensis optinendis a rectoribus dominis de Collegio et aliis universitatibus Papie gaudeant omnibus exemptionibus, immunitatibus, graciis sicuti predicti de // [fol. 9r] Collegio illorum de Castilione Papie et sine aliqua deferentia<sup>110</sup>. [e] Quodque provisiones panis, vini et utensilium et aliarum rerum pertinentium ad victum humanum fiant per dictos juvenes tempore debito seu per rectorem eorum pro tempore cum ipsorum deliberatione et consilio sitque inter ipsos bona, honesta et caritativa fraternitas. [f] Et si aliquem dictorum juvenem tempore residentie sue in dicta mea domo mori seu mortaliter infirmari contingerit, libri, vestes et alia mobilia dicti juvenis<sup>111</sup> intelligantur applicata ad usum et utilitatem et augmentum dicti Collegii mei. [g] Cui quidem Collegio eciam addo domus seu stabula et loca vicina michi pertinentia, partim<sup>112</sup> ex successione<sup>113</sup> paterna, partim acquisita ex meis propri-

<sup>95</sup> sic studentibus *Urkunde vom 15. April 1477.*

<sup>96</sup> *Folgt gestrichen et.*

<sup>97</sup> *et nur Urkunde vom 15. April 1477.*

<sup>98</sup> *Vor Papienis gestrichen Paq.*

<sup>99</sup> *So Urkunde vom 15. April 1477; effecti, ypotecati et obligati Ms.*

<sup>100</sup> *Hierzu künftig die Darstellung, Kap. 3.4 und 5.4.*

<sup>101</sup> *Am linken Rand NOTA.*

<sup>102</sup> *Sic Ms.*

<sup>103</sup> *meorum interlinear hinzugefügt.*

<sup>104</sup> *artes, jura, medicina.*

<sup>105</sup> *Der Großvater Prevedino. Das Haus auch unten § 30i.*

<sup>106</sup> *illorum interlinear hinzugefügt.*

<sup>107</sup> *Zum 1429 vom Kardinal Branda gegründeten Collegio Castiglioni als Vorbild s. die künftige Darstellung, Kap. 3.4.*

<sup>108</sup> *S. Maria Corona.*

<sup>109</sup> *Sic Ms.*

<sup>110</sup> *Sic Ms.*

<sup>111</sup> *Sic Ms.*

<sup>112</sup> *partem Ms.*

<sup>113</sup> *Vor ex successione gestrichen executione.*

is dinariis<sup>114</sup> facta, de qua constat instrumentum rogatum et traditum per dominum Antonium de Preotonibus, notarium Papie.<sup>115</sup> Que quidem loca seu stabula et domos assigno dicto Collegio et affecto pro comoditate ipsius et juvenum in eo studentium. Et volo quod ex meis dinariis competenter reparentur, sicut videbitur dictis meis executoribus, presertim ultramontanis, et de consilio citramontanorum<sup>116</sup>.

*[Die Zahl der Studenten im Collegio kann evtl. über elf hinaus erhöht werden]*

**[21]** Item, quia dicta domus est ampla et spaciosa et potest ad huc magis edificari ad commoditatem et usum dictorum undecim juvenum necnon et aliorum, si ipsis executoribus meis videbitur, quod alii ultra dictos undecim juvenes possint concedenter, laudabiliter et utiliter illic aliquo modo locari vel sustentari<sup>117</sup>.

*[Stimmt der Universalerbe den Stiftungen nicht zu, geht er zugunsten der Schwestern des Erblassers des Erbes verlustig]*

**[22]** Item, volo, quod infrascriptus heres meus<sup>118</sup> in singulis foundationibus et aliis predictis assensum solemnem et expressum et debitum // [fol. 9v] prestat, nec in aliquo contradicat, aliter et eo casu volo ex nunc prout ex tunc, omnem hereditatem meam, in qua per me heres instituitur, pervenire in dictas sorores meas Valentinam et Juliam et in herede masculos ex proprio earum corpore natos.

*[Der Universalerbe solle die pavesischen Stiftungen für das Collegio nicht anfechten, denn Raimondo habe viel für den Vater und die Schwestern aufgewandt und die Brüder hätten lange über seine Einkünfte und Fahrhabe frei verfügt]*

**[23]** Volo insuper, quod dictus heres meus infrascriptus<sup>119</sup> in assignatione dicte domus mee et aliorum omnium ad me pertinentium in Papia pro dicto Collegio instruendo et ordinando nullam faciat difficultatem<sup>120</sup> aut contradictionem, attento quod multo plura et maximi valoris exposui pro conservatione domus mee et patris mei vivente<sup>121</sup> ipso quam eciam post maritando ex meis propriis dinariis sorores meas<sup>122</sup> et solvendo dotes earum et multa alia exponendo pro conservatione patrimonii fratrum meorum<sup>123</sup> et mei, attento insuper quod ipsi fratres mei diutissime possiderunt et perceperunt integre omnes fructus et redditus partis bonorum paternorum et maternorum meorum ad me spectantium, necnon et integros fructus dicte terre seu possessionis de La Guarda, empte ex dinariis meis, quodque ipsi fratres mei sepe denarios, bona mobilia ac equos a me ex bonis meis habuerunt in magna quantitate et distribuerunt ut eis placuit.

*[Zehnjährige Aussteuerstiftung für jährlich 33 arme Mädchen zu Händen der Mailänder Dombauhütte; widerspricht der Erbe, wird er zugunsten der Schwestern des Erblassers enterbt]*

<sup>114</sup> Sic Ms., ebenso weiter unten.

<sup>115</sup> In den Notariatsakten des Antonio Preatoni zu Pavia, Archivio di Stato Pavia, Atti Notarili, Nr. 15840, "dal 13 marzo 1422 al 21 aprile 1484", befindet sich keine Kopie der vorliegenden Tetstaments (*ex inf.* Klaus Voigt, Berlin), aber evtl. eine des hier erwähnten Kaufvertrags, wie denn die Notariatsakten überhaupt noch viel zu Tage fördern dürften, was bislang im Dunkeln liegt.

<sup>116</sup> Siehe o. § 2 und unten § 29 die bislang noch gar nicht genannten Exekutoren jenseits der Alpen.

<sup>117</sup> Vgl. unten § 41d.

<sup>118</sup> Siehe unten § 23.

<sup>119</sup> Unten, § 23.

<sup>120</sup> Sic Ms.

<sup>121</sup> Dies die einzige direkte Erwähnung des Vaters Giacomo im Testament. Das Todesdatum ist unbekannt.

<sup>122</sup> Die Namen Valentina und Giulia s. §§ 6, 22 und 24.

<sup>123</sup> Als Bruder ist bezeugt Giovanni Francesco, der Universalerbe (§ 23), dazu kommt Fabrizio und kommen möglicherweise Niccolò und Giovanni Battista, die beide Söhne eines Giacomo genannt werden und im Zusammenhang mit der Verwirklichung von Raimondos Stiftungen begegnen.

[24] Item, volo quod a die obitus mei ad decem annos sequentes<sup>124</sup> singulis annis per infrascriptum heredem meum solvantur et consignentur realiter in festo Salutationis de mense marci<sup>125</sup> trecentum triginta tres libere monete Mediolani, ex quibus singulis annis maritentur [triginta]<sup>126</sup> tres puelle pauperrime nichil penitus habentes, dando cuilibet<sup>127</sup> // [fol. 10r] pro dote decem libras monete predictae per deputatos dicte fabrice<sup>128</sup> absque habendo respectum seu affectionem ad personas, nisi solummodo ad puram et veram paupertatem. Et si dictus heres meus in hoc distulerit aut contradixerit, volo quod hereditas mea et omnia, que ad ipsum ex bonis meis pertinere debent, vigore huius testamenti devolvantur statim ipso facto ad predictas sorores meas Valentinam et Juliam et ad liberos masculos ipsarum seu alterius ipsarum, in quibus hereditate et bonis eo casu ipsas instituo et nomino heredes meos.

*[Stiftung zweier Tapisserien zu Händen des Giorgio Cesarini, für die Lambertus-Kapelle in Sankt-Peter in Rom]*

[25] Item, lego basilice principalis<sup>129</sup> de Urbe, videlicet ecclesie Sancti Petri de Roma<sup>130</sup>, duos meos drapos ragios<sup>131</sup>, quos ultimo recesu<sup>132</sup> ex Roma<sup>133</sup> custodiendos dimisi domino Gregorio prothonotario de Cesarinis<sup>134</sup>, et volo, quod dicti drapi sint principaliter ad ornamentum capelle Sancti Lamberti, quam ipse dominus prothonotarius fecit construi in dicta ecclesia basilica in capella et in opposito capelle Notre Domine in Febribus<sup>135</sup>.

*[Stiftung einer Kasel an das Priorat Morteau in der Freigrafschaft Burgund]*

[26] Item, lego pro ornamento ecclesie existente in prioratu de Mortua Aqua, comitatus Borgondie diocesim Bisuntini, unam casulam pro sacerdote celebrante missas, in valorem decem florenum renensium<sup>136</sup>.

*[Guillaume Hugonet erhält die große Mauleselin des Erblässers und ein römisches Brevier, das er hat anfertigen lassen]*

<sup>124</sup> De facto im Zeitraum 20. Aug. 1475 bis 19. Aug. 1485.

<sup>125</sup> Mariä Verkündigung, 25. März.

<sup>126</sup> triginta wurde vom Kopisten versehentlich ausgelassen.

<sup>127</sup> Folgt durchstrichen decem.

<sup>128</sup> Der Dombauhütte von Mailand.

<sup>129</sup> principis Ms.

<sup>130</sup> Die alte Peterskirche oder Petersbasilika im Vatikan vor dem Neubau.

<sup>131</sup> Bezeichnung gebildet nach dem Namen der nordfrz. Herkunftsstadt Arras, weshalb insbes. franko-flämische Tapisserien in Italien "arazzi" hießen. Erneut in § 35.

<sup>132</sup> Sic Ms.

<sup>133</sup> Wohl im Sommer 1474.

<sup>134</sup> Giorgio (nicht Gregorio) Cesarini, der Neffe des Kardinals Giulio, Kanoniker von St. Peter, ebenfalls Domherr zu Lüttich und Archidiakon des Haspengaus (Hesbaye), s. M. É. Henneau und A. Marchandisse, *Vellétés de réforme dans l'Église de Liège des XV<sup>e</sup> et XVI<sup>e</sup> siècles*, in *De Pise à Trente : la réforme de l'Église en gestation. Regards croisés entre Escaut et Meuse*. Actes du colloque international de Tournai (Séminaire épiscopal), 19-20 mars 2004, hg. v. J.-M. Cauchies und M. Maillard-Luyppaert, Brüssel 2004 (Cahiers du Centre de recherches en histoire du droit et des institutions, 21-22), S. 153-212, hier S. 159-162 (ex inf. Alain Marchandisse, Lüttich).

<sup>135</sup> S. Maria della Febbre in der (nicht erhaltenen) Andreas-Rotunde auf der Südseite der Peterskirche, s. S. Schüller-Pirolì, *2000 Jahre Sankt Peter. Die Weltkirche von den Anfängen bis zur Gegenwart*, Olten 1950, S. 393, und dort den Plan von Alt-St. Peter mit der Legende auf S. 736f. (ex inf. Andreas Rehberg, DHI Rom). In Text und Plan ist die Lambertus-Kapelle nicht eigens nachgewiesen.

<sup>136</sup> Das Kluniazenser-Priorat Saint-Pierre et Saint-Paul zu Morteau in der Freigft. Burgund, Diöz. Besançon, Frankreich, dép. Doubs, arr. Pontarlier. Nähere Beziehungen sind nicht belegt, aber über die Universität Dole wahrscheinlich.

[27] Item, lego predictis executoribus duobus prenominatis, videlicet dicto domino cancelario<sup>137</sup>, meam magnam mulam cum breviario ad usum Romane curie, quod scribi, illuminari<sup>138</sup> et ligari feci a quinque annis citra<sup>139</sup>.

*[Die Dienerschaft hüben und drüben erhält jeder 5 Rh. fl. für ein Kleid]*

[28] Item, lego familiaribus meis domesticis comensalibus ultra eorum salarium pro quolibet ipsorum quinque renenses pro una veste, et hoc tam illis qui sunt in partibus istis<sup>140</sup> seu quam eciam aliis in alia vel alibi declarandos ad huc et nominandos per me.

*[Für die Güter in Italien werden Accerito Portinari, Tommaso Portinari und Pietro Motta als (Unter-)Exekutoren eingesetzt, doch ohne die nordalpinen (Ober) Exekutoren aus der Verantwortung zu entlassen]*

[29] Item, qua ad executionem bonorum meorum in Italia existentium, mobilium et immobilium, pecuniarum, vestium // [fol. 10v] et clenodiorum, debitorum, jurium, nominum debitorum, nomino et eligo Achiaretum Portinarii de Medicis de Florencia Mediolani residentem, fratrem germanum Thome Portinarii Brugis residentem<sup>141</sup>, nec non Petrum Mottam procuratorem causarum in Borletto Mediolani<sup>142</sup>, absque tamen exoneratione quorumque predictorum dominorum cancelarii et presidentis<sup>143</sup>, qui citra et ultra montes ad hanc voluntatem meam exequendam do et concedo plenam et liberam administrationem.

*[Materielle Sicherung der Stiftungen]*

[30]<sup>144</sup> Item, pro promissorum executione fienda volo: **[a]** quod omnia bona mea et singula mobilia et immobilia ac redditus et proventus et jura quecumque existencia in Burgundia, et tam in comitatu quam in civitate Bisontina<sup>145</sup>, vendantur et quod omnes pecunie quomodocumque ex dictis bonis provenientes applicentur ad dictam executionem<sup>146</sup>, **[b]** nec non et duo mille floreni Renensium, quos michi debet et assignavit dominus meus episcopus Leodiensis, ut constat per litteras suas desuper confectas et sigillatas<sup>147</sup>, **[c]** ac eciam omnia et singula bona mea et debita pecunie, jura et nomina debitorum michi competentia et spectancia quomodocumque in ducatu Brabancie, Flandrie, Zelandrie<sup>148</sup> et aliis bonis, **[d]** eciam omnes<sup>149</sup> pecunie, quas ex me habet dic-

<sup>137</sup> Guillaume Hugonet, s. o. § 2.

<sup>138</sup> *Folgt gestrichen* feci.

<sup>139</sup> Ca. 1470, in welcher Zeit Raimondo sich in Rom aufhielt. Unter den nachgelassenen Büchern des Kanzlers ist es nicht identifizierbar, doch ist die erhaltene Liste unvollständig; s. Paravicini 2000/2002, S. 176 mit Anm. 220, vier Breviere dort unter Nr. 48, 84 und 88.

<sup>140</sup> D. h. diesseits der Alpen.

<sup>141</sup> Die Brüder Accerito und Tommaso Portinari, Leiter der Mailänder und der Brügger Filiale der Medici-Bank. Vgl. unten § 30 d, f und g.

<sup>142</sup> Auch § 7b, 36, 41c genannt. Der *Broletto* (= kleiner Garten, Platz) ist das städtische Verwaltungszentrum mitten in der Stadt, wo auch die Notare ihren Sitz haben, s. P. Boucheron, *Le pouvoir de bâtir. Urbanisme et politique éditiale à Milan (XIV<sup>e</sup> - XV<sup>e</sup> siècles)*, Rom 1998 (Collection de l'École française de Rome, 239), S. 543-547.

<sup>143</sup> Siehe o. § 2.

<sup>144</sup> *Am linken Rand* NOTA.

<sup>145</sup> Um welche es sich im Einzelnen handelt, ist nicht bekannt, zum Domkanonikat in Besançon s. o. Anm. 74.

<sup>146</sup> executionem *verbessert* aus executorem.

<sup>147</sup> Diese Siegelurkunde des Bf.s v. Lüttich Ludwig v. Bourbon, in dessen Dienst Raimondo zeitweilig stand, ist verschollen, den Anlaß könnte eine Reise des Jahres 1468 nach Rom gegeben haben.

<sup>148</sup> Diese Forderungen stehen vermutlich in Zusammenhang mit Raimondos Tätigkeit für die Geistlichkeit dieser Länder ab 1474, s. künftig die Darstellung, Kap. "Der Starjurist".

<sup>149</sup> omnes *interlinear* hinzugefügt.

tus Thomas Portinarii et quas in<sup>150</sup> quomodocumque poterit debere<sup>151</sup> die obitus mei, **[e]** nec non omnes pecunie script(e)<sup>152</sup> banchis de Medicis de Lugdono<sup>153</sup> de summa quinguecentum et quinquaginta septem Renensium auri et in auro, **[f]** et omnes alie et singule pecunie existentes vel que existunt apud dictum Archiaretum, fratrem dicti Thome<sup>154</sup> pro me et nomine meo, **[g]** similiter omnes pecunie debite in scriptis per Johannem de Cusano, cugnatum meum, // [fol. 11r] et Jacobinum Puteobonellum, nepotem meum<sup>155</sup>, et Laurencium Cazollam, maritum Antonie nepotis mee<sup>156</sup>, **[h]** nec non omnia vestimenta et alia quacumque bona mea ubique locorum existencia, ut sic faciliter et prompte possit in omnibus et per omnia hec mea voluntas mitti executioni totaliter et dicta bona mea paterna, materna et acquisita ex denariis meis acquiri et liberari, **[i]** excepta totali domo magna Papie, in qua fundatum<sup>157</sup> est Collegium pro juvenibus ut supra<sup>158</sup>, que domus in totum cum omnibus aliis domibus et stabulis nec non cum ficto libelario michi debito in Papia unius floreni annuatim<sup>159</sup> remaneat pro usu et utilitate dicti Collegii et studentium in eo imperpetuum.

*[Der Neffe Antonio, Student in Pavia, erhält die schon in seinem Besitz befindlichen zivilrechtlichen Textbücher und darf 10 Jahre lang im Collegio wohnen]*

**[31]** Item, lego Antonio nepoti meo<sup>160</sup>, residenti et studenti in Papia, libros juris civilis textuales per me emptos, quos apud se iam diu habet, necnon vestes et mobilia mea quecumque apud eum existencia; et volo quod in dicto Collegio possit rescidere, vivere et habitare decem annis libere et gratis sicut quilibet ex dictis scholaribus illic rescidere debentibus.

*[Der Bruder Giovanni Francesco de Marliano wird für die restlichen Güter, insbesondere zu Marliano, La Guarda und Trezzo, zum Universalerben eingesetzt, doch unter der Bedingung, daß nichts entfremdet werden dürfe, sonst falle das Erbe unter derselben Bedingung an dessen Söhne]*

**[32]** Item, in reliquis autem bonis meis mobilibus et immobilibus, juribus et nominibus debitorum, presertim existentibus Marliani, La Guardie et Tritii<sup>161</sup>, instituo et nomino michi heredem universalem Johannem Franciscum de Marliano, fratrem meum, ita et taliter, quod de dictis bonis meis paternis, maternis seu eciam ex denariis<sup>162</sup> meis quovis modo acquisitis nil possit vendere, alienare, permutare, // [fol. 11v] pignorare, dare in emphyteosim vel ad libellum sive in feudum et<sup>163</sup> quovismodo in ali-

<sup>150</sup> in *interlinear* hinzugefügt. Man erwartet ein folgendes modo, das jedoch fehlt.

<sup>151</sup> debere ac Ms.

<sup>152</sup> script mit Kürzung Ms.

<sup>153</sup> Die Bankfiliale der Medici in Lyon, Frankreich, dép. Rhône, die Höhe des Depots s. unten § 41a. Das Depot könnte mit der Legationsreise des Kardinals Bessarion zusammenhängen, an der Marliano i. J. 1472 teilnahm.

<sup>154</sup> Accerito und Tommaso Portinari in Mailand und Brügge, s. §§ 29, 37, 39.

<sup>155</sup> Der Vetter (oder auch nur Verwandte) Giovanni de Cusano und der Neffe Giacomo Pozzobonello sind nicht identifiziert.

<sup>156</sup> Lorenzo Cazolla, Mann der Nichte Antonia, die vielleicht Tochter des Antonio de Marliano d. Ä. und Schwester des Antonio de Marliano d. J. war, der im Marliani-Kolleg zu Pavia Aufenthaltsrecht erhalten sollte und von Raimondo juristische Bücher zum Besitz, die er ihn lange schon geliehen hatte (§ 31).

<sup>157</sup> Sic Ms., m anstatt n auch weiterhin in diesem §, auch in § 41a.

<sup>158</sup> Siehe § 20.

<sup>159</sup> Diese Jahresrente eines Guldens zu Pavia dürfte in Paveser Notariatsregistern nachzuweisen sein.

<sup>160</sup> Vgl. o. Anm. 156.

<sup>161</sup> Siehe o. § 7b-c, wo auch die Orte identifiziert sind.

<sup>162</sup> Vor ex denariis gestrichen exquisitis.

<sup>163</sup> et *interlinear* nachgetragen. Man erwartet eher ein vel.

quem transferre; et si ad aliquem actum ex predictis pervenire inceperit, volo bona ista statim<sup>164</sup> et ipso facto transferri in filios masculos legitime natos eiusdem fratris mei equalibus portionibus, qui similiter nullo modo dicta bona in aliquem transferre possint, sed semper remaneant in familia et domo ipsorum de filio masculo in filium masculum legitime<sup>165</sup> natum imperpetuum, nec ad hoc aliqua vice reperiri possit ad eludendum vel infrigendum hanc nostram voluntatem seu prohibitionem.

*[Legat von 100 fl. mailänd. an S. Stefano in Brolo, Grabstätte der Marliani]*

**[33]** Item, lego ecclesie Sancti Stephani in Brolio, in quo jacent et comsuere<sup>166</sup> sepiliri corpora illorum de Marliano<sup>167</sup>, centum florenos monete Mediolani convertendos in necessariam reparationem dicte ecclesie.

*[Stiftung eines Jahrtags in jedem der sechs Mailänder Bettelklöster]*

**[34]** Item, lego quibuslibet ex sex conventibus mendicantium supra nominatis<sup>168</sup> viginti quinque florenos monete Mediolani convertendos in refectiones necessarias dictorum conventuum monasteriorum suorum; pro quibus in quolibet conventu celebretur annuatim solemniter pro animabus predecessorum<sup>169</sup> meorum propinquorum, benefactorum ac eciam pro mea unum anniversarium imperpetuum.

*[Stiftung einer Tapisserie an die mitbegründete Kapelle S. Giovanni in Ivrea]*

**[35]** Item, lego capelle Sancti Johannis prope ecclesiam Yporigniensiis, fundate ac donate per episcopum Iporigniensem et auctoritate apostolica, me instante erecte<sup>170</sup>, unam drapum ragium<sup>171</sup>, in quo sunt aliqua miracula vel aliquid de vita // [fol. 12r] sanctorum Johannis Baptiste et Evangeliste, valoris decem Renensium.

*[Aussteuer für die Töchter des Mailänder Exekutors Pietro Motta]*

**[36]** Item, volo quod quilibet filiarum domini Petri Motte, mei executoris in Mediolano prenominati<sup>172</sup>, habeant quinquaginta florenos monete Mediolani quando nubent seu quando ingredientur religionem, solvendos per dictum Johannem Franciscum, fratrem meum et heredem, ex fructibus bonorum meorum paternorum, maternorum et acquisitorum.

*[Die Gebrüder Accerrito, der andere Exekutor in Mailand, und Tommaso Portinari, erhalten das lebenslängliche Recht, gemeinsam einen Florentiner oder anderen Studenten an das Collegio zu entsenden]*

<sup>164</sup> Vor statim durchgestrichen q.

<sup>165</sup> Sic, wie o. § 17.

<sup>166</sup> Sic Ms.

<sup>167</sup> Die Pfarrkirche S. Stefano in Brolo (= im Garten) in Mailand, wo in der Tat Gräber und Inschriften von der Gegenwart der Familie zeugen, s. V. Forcella, *Iscrizioni delle chiese e degli altri edifici di Milano dal secolo VIII ai nostri giorni*, Bd. 1, Mailand 1889, S. 268, Nr. 391: *Has valvas instauravit venerabilis dominus Martinus Marlianus die primo martii 1469*; S. 268, Nr. 393: Epitaph für einen Michele Marliani, undatiert (*ex inf.* Klaus Voigt, Berlin).

<sup>168</sup> In Mailand, s. o. § 10.

<sup>169</sup> Sic Ms.

<sup>170</sup> Der die Kapelle S. Giovanni beim Dom der savoyischen Stadt Ivrea (Italien, Region Piemont, Prov. Turin) stiftende Bf. war Giovanni (aus de Hause der Grafen) de Parella, 1437-1479 (K. Eubel, *Hierarchia catholica medii aevi*, Bd. 2, Münster 1914, S. 168). Die päpstliche Genehmigung wird bei Gelegenheit eines der verschiedenen Romaufenthalte Raimondos erlangt worden sein. Über Marlianos Beziehungen zu Ivrea ist nichts weiter bekannt.

<sup>171</sup> Siehe o. § 25.

<sup>172</sup> Siehe o. § 29, auch 41c und 7b.



[37] Item, volo quod Archiaretus Portinarius, alter executor meus in Mediolano, et Thomas Portinarius, eius frater, et superstes durante ipsorum vita ponant in dicto Collegio unum juvenem Florentinum vel ex quocumque alio loco per ipsos eligendum, natum [et] qualificatum ut supra, qui durante quinquennio in studio generali studendo et residendo in legibus vel iure canonico vel medicina habeat ex bonis meis viginti-quinque florenos monete Mediolani annuatim, solvendo in festo Omnium Sanctorum ex<sup>173</sup> expensis meis dictis<sup>174</sup>, quinquenio resideat et studeat in dicto Collegio meo. Ita quod si ante dictum quinquennium perfectum decederit vel in studio generali residendo et studendo destiterit, statim dicti fratres seu superstes eorum durante ipsorum vita alium elegant<sup>175</sup> et nominent, qualificatum ut supra.

*[Guillaume Hugonet und Jean Carondelet erhalten das Recht zur Abänderung aller Testamentsbestimmungen]*

[38] Item, volo quod prefati cancelarius et presidens et quilibet eorum, altero absente, possint in omnibus et per omnia et in singulis verbis, pasibus<sup>176</sup> et articulis hoc meum // [fol. 12v] [testamentum]<sup>177</sup> interpretari, addere, diminueri, extendere ac circa illud eiusque intellectum quomodocumque eis videbitur disponere; omniaque eorum et cuiuslibet ipsorum interpretationem, declarationem, extensionem<sup>178</sup> vel aliam dispositionem in premis fiendas ex nunc prout reputo esse clare et expresse mentem meam voluntatem, intentionem, declarationem, interpretationem, dispositionem et extensionem, ac si in hoc presenti testamento omnino ac clare ac verbis manifestissimis expresa, et hoc quo tam ad bona et singula ad me spectantia seu de quibus disposui vel disponam existentia citramontes quam etiam quo ad alia<sup>179</sup> quaecumque paterna, materna et acquisita existentia ultramontes.

*[Sie werden von jeder Rechnungslegung befreit und können auch die Mailänder Exekutoren davon befreien]*

[39] Volo etiam, quod predicti domini cancelarius et presidens liberi sint et ipsos libero ab omni ratione reddenda de exequenda per ipsos seu eorum deputatos aut deputandos vel qualitercumque administrantes vigore presentis testamenti; quodque ipsi duo et quilibet eorum possint similiter liberare a ratione reddenda predictas Archiaretum Portinarii et dominum Petrum Mottam, executores meos prenomatos.

*[Bestimmung über die Ausfertigung des Testaments]*

[40] Item, hoc meum testamentum volo dictari et ordinari ad dictamen sapientis seu sapientium eligendos, si opus fuerit, per prefatum dominum cancelarium et presidentem seu alter eorum, et<sup>180</sup> ita viderint expedire.

*[Bestimmungen für den Fall, daß mehr oder weniger Geld für die Stiftungen zusammenkommt als vorgesehen: Sie müssen jedenfalls verwirklicht werden]*

[41] <sup>181</sup>Item, volo [a] quod, si bona omnia citramontes existentia ac etiam dinarii, credita, obligationes, scripta banchis illorum de Medicis in Lugduno de quinquecentum quinquaginta septem florenorum Renensium auri et in auro, ac alia nomina debitorum meorum et reliqua mobilia mea etiam ultramontes existentia sufficiant // [fol. 13r] ad

<sup>173</sup> seu Ms.

<sup>174</sup> dictis aus dictos korrigiert.

<sup>175</sup> Sic Ms. anstatt eligant.

<sup>176</sup> Sic Ms. anstatt passibus. Einfaches s noch mehrmals im selben §.

<sup>177</sup> Vom Kopisten ausgelassen, hier ergänzt.

<sup>178</sup> Sic Ms., wohl anstatt intentionem.

<sup>179</sup> Vor alia gestrichen illa.

<sup>180</sup> et Ms., wohl anstatt ut.

<sup>181</sup> Am linken Rand NOTA.

fundationes<sup>182</sup> per me supra factas, quodque hoc casu, et non aliter nec non alio modo, bona mea paterna, materna et acquisita ultramontes consistencia sint et remaneant libera a dictis fundationibus, **[b]** preterquam quod dictus frater meus heres seu descendentes ab eo per rectam lineam masculam ex legitimo matrimonio procreati in omnem casum<sup>183</sup> tenantur solvere decem annis continuis in festo Salutationis Virginis fabrice ecclesie Mediolani, incipiendo a die obitus mei, trecentum triginta tres libras monete Mediolani pro maritando singulis annis triginta tres puellae nichil habentes et in extrema paupertate constitutas, et dando cuilibet ipsarum pro dote decem libras monete Mediolani<sup>184</sup>. **[c]** Ac eciam preter id, quod dictus frater meus et heres teneatur cuilibet filiarum dicti domini Petri Motte solvere quinquaginta florenos monete Mediolani, quando nubent vel quando ingredientur religionem<sup>185</sup>. **[d]**<sup>186</sup> Et si ultra dictas fundationes remanerent ad huc pecunie ex dictis bonis et denariis, volo quod prefati domini cancelarius et presidens<sup>187</sup>, prout eis videbitur, augeant fundationem numeri studentium in dicto Collegio ad eius reparationem, et edificium necessarium et oportunum faciant fieri de predictis bonis expensis prout eis videbitur. **[e]** Et si dicti denarii mei et bona non possent perficere dictas fundationes, tunc et eo casu volo, quod ipsi fundationes, qui restabunt, perfici fiant, eciam expensis edificii Collegii capiantur per ipsos dominos executores meos cancelarium et presidentem seu alterum ipsorum aut deputatos vel deputandos ab eis super bonis meis acquisitis in Italia<sup>188</sup>. Et si precium bonorum meorum non sufficiat, suppleatur ex precio // [fol. 13v] bonorum meorum maternorum; et si precium bonorum meorum maternorum non sufficiat, capiatur ex precio bonorum meorum paternorum, ita et taliter quod omnino dicte fundationis perfecte adimpleantur, et quod<sup>189</sup> predicta bona pro premissis adimplenda vendantur per prefatos dominos<sup>190</sup> cancelarium et presidentem seu alterum eorum vel ipsorum deputatorum vel deputandorum.

[Notarielle Beglaubigung]

Et hanc suam ultimam voluntatem aseruit<sup>191</sup> esse velle, quam valere voluit et ordinavit jure testamenti numcupativi<sup>192</sup>, et si jure testamenti numcupativi non valeret, saltem valere voluit jure codicilorum<sup>193</sup> aut alterius cuiuscumque donationis causa mortis seu prout melius et efficacius de jure vel de consuetudine valere poterit et tenere<sup>194</sup>. Super quibus omnibus et singulis prefatus dominus Raymundus de Marliano, testator antedictus, a me, notario supracripto, mandavit atque voluit fieri et confici unum et plura, publicum instrumentum<sup>195</sup> vel publica instrumenta. Acta fuerunt hec Maclinie in camera hospicii abbatis Sancti Michaelis<sup>196</sup>, in qua tunc prefatus testator locatus erat, anno, indictione et mense, die, pontificatu quibus supra, presentibus ibidem reverendis

<sup>182</sup> Sic Ms., m anstatt n noch öfter in diesem §. Ebenso o. § 30.

<sup>183</sup> Vor casum gestrichen causam.

<sup>184</sup> Vgl. o. § 24.

<sup>185</sup> Vgl. o. § 36, auch 7b und 29.

<sup>186</sup> Am rechten Rand NOTA.

<sup>187</sup> Hugonet und Carondelet, o. § 2

<sup>188</sup> Am rechten Rand NOTA.

<sup>189</sup> quae Ms.

<sup>190</sup> dominos wiederholt Ms.

<sup>191</sup> Sic Ms.

<sup>192</sup> Siehe o. am Ende der notariellen Vorbemerkung.

<sup>193</sup> Sic Ms.

<sup>194</sup> Vgl. die notarielle Vorbemerkung, und § 1 und 40.

<sup>195</sup> publici (korr. in publica) instrumenti Ms.

<sup>196</sup> Das Stadthaus oder "refuge" der Antwerpener St. Michaelsabtei befand sich in der "Bruul" genannten Straße und wurde i. J. 1602 in das Kloster Leliëndal inkorporiert, s. J. Schoeffer, *Historische aanteekeningen rakende de kerken, de kloosters, de ambachten en andere stichten der stad Mechelen*, 3 Bde., Mecheln o. J. (Nachdruck Brüssel 1996), S. 132 (ex inf. Dieter Viaene, Mecheln).

ac magnificis dominis magistris<sup>197</sup> Guelmo de Bugniaco, sedis apostolici prothonotario et perpetuo gubernatore ecclesie Mornensis<sup>198</sup>; Arnolido de Lalain, preposito Beate Marie Burgundie<sup>199</sup>; Johanne Vincen, archidiacono Bisuntino<sup>200</sup>; Adriano de Potisic preposito Insulensis<sup>201</sup>; Johanne Jacelini<sup>202</sup>, Thoma de Plebe<sup>203</sup>, Joanne<sup>204</sup> Beonisii<sup>205</sup>, Petro

<sup>197</sup> Die folgenden, stark entstellten Namen und Orte waren nur mit Hilfe der Urkunde zu identifizieren, durch welche diese Personen von Hz. Karl dem Kühnen zu Mitgliedern des Parlament vom Mecheln ernannt wurden, Thionville, 8. Dez. 1473, bei Jan van Rompaey, *De Grote Raad van de hertogen van Boergodie en het Parlement van Mechelen*, Brüssel 1973, S. 505f.

<sup>198</sup> Guillaume de Clugny d. Ä., aus Autun im Hzt. Burgund (départ. Saône-et-Loire), geistl. Bittschriftenmeister am Parlament, apostolischer Protonotar, Koadjutor des Bistums Thérouanne (*Morinensis*, Frankreich, départ. Pas-de-Calais, arr. St-Omer, cant. Aire), zeitweilig Bedenschatzmeister, Schatzmeister des Ordens vom Goldenen Vlies, zuständig für die Steuer auf die Geistlichkeit (wogegen Marliano sie verteidigte, s. J. Bartier, *Quelques réflexions à propos d'un mémoire de Raymond de Marliano et de la fiscalité à l'époque de Charles le Téméraire*, in «Bijdragen en Mededelingen betreffende de Geschiedenis der Nederlanden», 95, 1980, S. 349-362); nur seiner apostolischen Würde hatte er es zu verdanken, dass er nicht wie der Kanzler Hugonet und Guy de Brimeu-Humbercourt als einer der führenden Räte des toten Herzogs am 3. April 1477 in Gent hingerichtet wurde; er wechselte dann auf die frz. Seite und starb 1481 als Bf. v. Poitiers. Siehe J. Bartier, *Contribution à l'histoire des ducs de Bourgogne. Le Sixième Denier et l'Amortissement sous Charles le Téméraire*. Unveröff. Lizentiatsarbeit Brüssel 1938, 191 S. (Archiv der Bibliothèque de l'Université Libre de Bruxelles, microfilm T00037M - Dank an Jean-Pierre Devroey und Jean-Marie Duvoisquel, Brüssel), S. 141-143 Anm. 2; J. Bartier, *Un document sur les prévarications et les rivalités du Patriciat bruxellois au XV<sup>e</sup> siècle*, in «Bulletin de la Commission Royale d'Histoire», 107 (1942), S. 337-379, hier S. 353f. Anm. 1; J. Bartier, *Légistes et gens de finances au XV<sup>e</sup> siècle. Les conseillers des ducs de Bourgogne Philippe le Bon et Charles le Téméraire*, Brüssel 1955, S. 41 mit Anm. 2 und *passim*; Hours, *Diocèse de Besançon*, S. 112 Nr. 696 (Domkanoniker in Besançon); Petra Ehm[-Schnocks], *Burgund und das Reich. Spätmittelalterliche Außenpolitik am Beispiel der Regierung Karls des Kühnen (1465-1477)*, München 2002 (Pariser Historische Studien, 61), S. 241f.; J. P. Ward, *Guillaume de Clugny, Guillaume Bische and Jean Gros: mediators between Charles the Bold of Burgundy and the cities of Holland (1460-1477)*, in «Francia», 33 (2006), 1, S. 69-99; L. Vallière, *Diocèse de Poitiers*, Turnhout 2008 (Fasti ecclesiae gallicanae, 10), S. 175-180 (mit Lit.); A. Marchandisse und C. Masson, *Les tribulations du Grand Bâtard Antoine de Bourgogne en Italie (1475)*, in «Publications du Centre Européen d'Études Bourguignonnes», 49 (2009), S. 23-49, hier S. 43 mit Anm. 101; J.-B. de Vaivre, *Aspects du mécénat des Clugny au XV<sup>e</sup> siècle*, in «Comptes rendus des séances de l'Académie des Inscriptions et Belles-Lettres», 2008 (Paris 2010), S. 507-555, *passim*, bes. S. 525-527. - Siehe auch unten zu seinem gleichnamigen Neffen.

<sup>199</sup> Arnoul de Lalaing, Propst von Notre-Dame bzw. Onze Lieve Vrouw oder Marienkirche in Brügge (lies *Brugensis*, nicht *Burgundie*), geistl. Parlamentsrat, 1462 in Köln, 1464 in Löwen immatrikuliert, wo er zum Dr. utr. jur. promoviert wurde und später lehrte (gest. 1483). Kerckhoffs-De Hey, *De Grote Raad*, S. 90.

<sup>200</sup> Vincen *sic Ms.* - Jean Vincent, geistl. Parlamentsrat, 1461-1491 Archidiakon von Besançon (Frankreich, départ. Doubs), Dr. utr. jur., 1451 im Parlament von Dole. Kerckhoffs-De Hey, *De Grote Raad*, S. 154f.; Hours, *Diocèse de Besançon*, S. 177, Nr. 650. Er gehört zu den Personen, die auf der hzgl. Seite näher mit dem Einspruch der brabantischen Geistlichkeit befaßt waren, die Raimondo de Marliano vertrat, s. Em. Steenackers, *Une prestation pécuniaire du clergé malinois sous Charles-le-Téméraire [1475]*, in «Handelingen van den Mechelsen Kring voor Oudheidkunde, Letteren en Kunst», 29 (1924), S. 15-29, hier S. 16.

<sup>201</sup> Adrien de Poitiers, Propst der Stiftskirche St-Pierre in Lille (Frankreich, départ. Nord), geistl. Parlamentsrat, studierte in Löwen und wurde dort zum Dr. utr. jur. promoviert. Kerckhoffs-De Hey, *De Grote Raad*, S. 115.

<sup>202</sup> Jean Jaquelin, weltl. Bittschriftenmeister am Parlament, lic. im Zivilrecht, Gouverneur der burgundische Provinzialkanzlei, hzgl. Rat und Bittschriftenmeister bei Hofe, s. Bartier 1955, S. 196 Anm. 2.

<sup>203</sup> Thomas de Plaine, weltl. Bittschriftenmeister am Parlament, in Mecheln geboren, 1459 in Löwen immatrikuliert, später zum Dr. utr. jur. promoviert, s. Bartier 1955, S. 400f.; Kerckhoffs-De Hey, *De Grote Raad*, S. 112f.; Cools, *Mannen met macht*, S. 278f. Nr. 203; F. Buylaert,

Clerain<sup>206</sup> ac Guelmo de Dugniaco<sup>207</sup>, illustrissimi domini Burgundie Parlamenti in Maclinia consiliariis, testibus ad premissa vocatis specialiter atque rogatis.

Et ego Paulus Rose, presbiter Cameracensis diocesis<sup>208</sup>, publicus apostolica auctoritate notarius, quia prescripsi et inserti testamenti numcupativi sive ultime voluntatis dispositioni, dum sic per eximium et spectabilem //[[fol. 14r] virum magistrum Raymundum de Marliano, juris utriusque doctorem, testatorem prefatum, in scriptis exhiberetur et alta et intelligibili voce et de verbo ad verbum legeretur, modo ex quo supra annotata comscripsi et extraxi omnibus que aliis et sigulis premissis, dum eciam sic, ut premitteretur, fierent et agerentur ac dicerentur, una cum prenominationis testibus presens fui eaque fieri vidi et audivi. Id circo hoc presens testamentum instrumentum publicum par alium fideliter scriptum exinde confeci ac innotavi<sup>209</sup>, sumpsi et in hanc formam publicam<sup>210</sup> redegi signoque et nomine et cognomine meis solitis et<sup>211</sup> consuetis signavi et hic me subscripsi<sup>212</sup> in fidem omnium et singulorum premisis rogatum et requisitum.

*Eeuwen van ambitie. Edelen, steden en sociale mobiliteit in laatmiddeleeuws Vlaanderen.* Diss. phil. Gent 2008, S. 315f. und die Notiz auf CD.

<sup>204</sup> Folgt gestrichen de.

<sup>205</sup> Jean de la Bouverie, 2. (weltlicher) Präsident des Parlaments, 1477 1. Präsident in der Nachfolge von Jean Carondelet, der ausscheiden mußte, weil er des Niederländischen nicht mächtig war, s. Kerckhoffs-De Hey, *De Grote Raad*, S. 24f. und Cools, *Mannen met macht*, S. 173f. Nr. 34.

<sup>206</sup> Pierre de Clervaulx, 2. (welrtl.) Advokat am Parlament, Dr. utr. jur. in Pavia, s. Kerckhoffs-De Hey, *De Grote Raad*, S. 48.

<sup>207</sup> Guillaume de Clugny d. J., welrtl. Parlamentsrat. Er hatte in Dole und Pavia studiert und war am 26. Sept. 1470 zu Ferrara im Zivilrecht promoviert worden s. G. Pardi, *Titoli dottorali conferiti dallo studio di Ferrara nei sec. XV e XV*, Lucca 1900, S. 50f.; W. Paravicini, *Invitations au mariage. Pratique sociale, abus de pouvoir et intérêt de l'État à la cour des ducs de Bourgogne au XV<sup>e</sup> siècle, 1397-1478. Documents introduits, édités et commentés*, Stuttgart 2001 (Instrumenta, 6), S. 161-165, Nr. 122 de Vaivre, *Aspects du mécénat* [2010], S. 532, 542f., 554f. (Auszug aus seinem Testament von 1508), und o. die Angaben zu seinem gleichnamigen Onkel.

<sup>208</sup> dictus Ms. - Paul Rose war Notar und Kanoniker an St. Rombout in Mecheln und einer der Unterhändler in Sachen Besteuerung der Mechelner Geistlichkeit.

<sup>209</sup> in- interlinear nachgetragen.

<sup>210</sup> publicam wiederholt Ms.

<sup>211</sup> et interlinear nachgetragen.

<sup>212</sup> Signatur und Notarszeichen sind in der Kopie nicht wiedergeben.

# ***Neue Quellen zur Geschichte der Beziehungen Kaiser Friedrichs II. zur Stadt Rom***

von Josef Riedmann

Seit den Tagen der klassischen Antike bestand eine überaus enge Verbindung zwischen der Stadt Rom und dem Herrscher über jenes Reich, das den Namen *Imperium Romanum* getragen hat. Dies änderte sich bekanntlich auch nicht, als der Kaiser seine Residenz vom Tiber weg an den Bosphorus verlegte, und als dann in der Übergangsperiode von der Spätantike zum frühen Mittelalter aus dem Imperator ein Basileus wurde. Mit der *Translatio imperii* zur Zeit der Karolinger und der nun allmählich einsetzenden Ausbildung der weltlichen Machtansprüche des Bischofs von Rom ergaben sich neue Akzente im Verhältnis zwischen der *urbs* und dem erneuerten Kaisertum. Der *Imperator Romanorum* des Westens suchte zwar mehr oder weniger regelmäßig die Stadt Rom auf, vornehmlich um sich dort vom Papst die Kaiserkrone auf das Haupt setzen zu lassen, doch unter den Nachfolgern der Karolinger dürfte allein Kaiser Otto III. um die Jahrtausendwende ernsthafte Ambitionen entwickelt zu haben, sich dauerhafter in der Stadt am Tiber niederzulassen. Im hohen Mittelalter schien sich dann kurzfristig das Reformpapsttum auch die weltliche Herrschaft über Rom zu sichern, doch die auch hier wirksam werdende kommunale Bewegung erwies sich seit dem 12. Jahrhundert, wesentlich gestützt auf mächtige lokale Geschlechter und bisweilen auch im Rückgriff auf antike Traditionen, als sehr ernsthafte Konkurrenz zu den Bestrebungen der Kirchenfürsten, in Rom als alleiniger Träger der Macht in Erscheinung zu treten. Der Dualismus von Papst und Kommune konnte und musste sich damit zu einem Widerstreit dreier Interessenten entwickeln, wenn ein selbstbewusster römischer Kaiser ebenfalls Ansprüche auf Rechte in der Ewigen Stadt geltend machte. Der sich so artikulierende dreifache Antagonismus äußerte sich mehrfach punktuell, etwa im Zusammenhang der Krönung eines neuen Herrschers. Die Ereignisse im Vorfeld und bei der Erhebung Friedrichs I. zum Kaiser im Juni 1155 bilden dafür wohl das bekannteste Beispiel. Damals brachten sowohl der staufische Herrscher wie auch Papst Hadrian IV. und ebenso der Senat von Rom ihre auf Vorrang ausgerichteten Standpunkte unmissverständlich zum Ausdruck<sup>1</sup>. Unter besonderen Vorzeichen konnte sich diese fallweise wirksam

<sup>1</sup> Vergleiche die ausführliche Berichterstattung Bischof Ottos von Freising in seinen *Gesta*

werdende dreifache Konkurrenz auch zu einem dauerhaften Zustand entwickeln, und dies war insbesondere unter Kaiser Friedrich II. der Fall, als dessen Regierung mehr und mehr ganz wesentlich vom großen Konflikt mit dem Papsttum gekennzeichnet war<sup>2</sup>.

Über die Beziehungen Friedrichs II. zum Rom liegen zahlreiche Studien vor. Grundlegend sind immer noch die Ausführungen im klassischen Werk von Ernst Kantorowicz<sup>3</sup>, und einen Überblick mit zahlreichen Quellenbelegen bot so dann Eugenio Dupré Theseider<sup>4</sup>. Die zeitlich einschlägigen ausführlichen Darstellungen der Geschichte der Stadt Rom von Paolo Brezzi und Eugenio Dupré Theseider in der großen *Storia di Roma*<sup>5</sup> vermitteln ein unentbehrliches Hintergrundwissen. Neuere Studien stammen hingegen vor allem aus der Feder von Hubert Houben<sup>6</sup> und Matthias Thumser. Alle diese Arbeiten stützen sich vornehmlich auf die rhetorisch und inhaltlich geradezu spektakulären großen Manifeste des Reichsoberhauptes an die *urbs* und ihre Bewohner sowie – dies gilt insbesondere für die Arbeiten von Matthias Thumser – auch auf zahlreiches, bisher nicht gedrucktes Quellenmaterial zur Entwicklung der inneren Verhältnisse in der Ewigen Stadt<sup>7</sup>.

*Friderici*, editio tertia rec. G. Waitz, cur. B. de Simson (Monumenta Germaniae Historica, *Scriptores rerum Germanicarum in usum scholarum*), Hannoverae 1912, S. 134-142 sowie die vollständige Zusammenstellung aller einschlägigen Quellen jetzt in den *Regesta Imperii*, IV, 2,1, nach J. Böhmer neu bearbeitet von F. Opll, Wien 1980, Nr. 316 und 319.

<sup>2</sup> Stellvertretend für eine Fülle einschlägiger Literatur ist für die frühere Zeit immer noch zu verweisen auf die klassische Studie von P.E. Schramm, *Kaiser, Rom und Renovatio. Studien und Texte zur Geschichte des römischen Erneuerungsgedankens vom Ende des karolingischen Reiches bis zum Investiturstreit*, Leipzig 1927. Für die spätere Zeit vergleiche etwa J. Petersohn, *Rom und der Reichstitel "Sacrum Romanum Imperium"*, Stuttgart 1994 (Sitzungsberichte der wissenschaftlichen Gesellschaft an der Johann Wolfgang Goethe Universität Frankfurt, XXXII/4). Aus der Feder von J. Petersohn steht eine umfangreiche Darstellung dieser Thematik – ausgreifend auch bis in die Zeit Friedrichs II. – unmittelbar vor dem Erscheinen.

<sup>3</sup> E. Kantorowicz, *Kaiser Friedrich der Zweite*, Berlin 1927, im Kapitel VII: "Caesar und Rom", S. 402-470 und insbesondere im *Ergänzungsband*, Berlin 1931, besonders 283f.

<sup>4</sup> E. Dupré Theseider, *L'idea imperiale di Roma nella tradizione del medioevo*, Milano 1942, besonders Kapitel IV: "Roma nel programma imperiale di Federico II", S. 173-196.

<sup>5</sup> P. Brezzi, *Roma e l'impero medioevale (774-1252)*, *Storia di Roma*, X, Bologna 1947, besonders S. 405-462; E. Dupré Theseider, *Roma dal comune di popolo alla signoria pontificia (1252-1377)*, *Storia di Roma*, XI, Bologna 1952, besonders die Anfangskapitel.

<sup>6</sup> H. Houben, *La componente romana nell'istituzione imperiale da Otto I a Federico II*, in *Roma antica nel medioevo. Mito, rappresentazioni, sopravvivenze nella "Respublica Christiana" dei secoli IX-XIII*. Atti della XIV settimana internazionale di studi, Mendola 24-28 agosto 1998, Milano 2001, S. 27-47.

<sup>7</sup> Vergleiche dazu vor allem die Monographie von M. Thumser, *Rom und der römische Adel in der späten Stauferzeit*, Tübingen 1995 (Bibliothek des Deutschen Historischen Instituts in Rom, 81), mit umfangreichen Verweisen auf Quellen und Literatur, sowie den Aufsatz von M. Thumser, *Friedrich II. und der römische Adel*, in *Friedrich II. Tagung des Deutschen Historischen Instituts in Rom im Gedenkjahr 1994*, herausgegeben von A. Esch und N. Kamp, Tübingen 1996 (Bibliothek des Deutschen Historischen Instituts, 85), S. 425-438. Eine neueste Zusammenfassung bietet nun auch L.E. Saurma-Jeltsch, *Aachen und Rom in der stauferischen Reichsimagination*, in B. Schneidmüller, St. Weinfurter, A. Wiczorek (Hg.), *Verwandlungen des Stauferreichs. Drei Innovationsregionen im mittelalterlichen Europa* (Begleitbuch zur Ausstellung "Die Staufer und Italien", Mannheim September 2010 - Februar 2011), Darmstadt 2010, S. 268-307.

Nun wollte es der Zufall, dass diese bereits sorgfältig ausgewertete Basis in jüngster Zeit durch die Auffindung neuer Quellen eine kleine Ausweitung erfahren hat. In einem bisher unbeachteten, äußerlich sehr unscheinbaren Codex der Universitätsbibliothek Innsbruck fanden sich Abschriften von über 180 Schreiben, die von Friedrich II. und seinem Sohn König Konrad IV. ausgestellt worden sind. Davon waren gut 30 Schreiben des kaiserlichen Vaters sowie über 100 seines Sohnes der Forschung bisher nicht bekannt<sup>8</sup>. In zwei dieser neu entdeckten Stücken wendet sich Kaiser Friedrich direkt an den Senat und das Volk von Rom, beziehungsweise an dem «capitaneus sacre rei publice» sowie an das gesamte römische Volk. Ein weiteres kaiserliches Schreiben nimmt kurz auf Wirren «in Romanis partibus» Bezug. Diese drei bisher ungedruckten Stücke sollen in der Folge interpretiert und dann auch im vollen Wortlaut ediert werden.

Es gehört zu den Eigenarten der Überlieferung der Texte im Innsbrucker Codex 400, dass der Absender entweder nur in verkürzter Form oder überhaupt nicht namentlich genannt wird. Der Zusammenhang sichert aber in unseren Stücken den Kaiser als Aussteller, denn wenn das in der Handschrift vorhergehende Schreiben mit «Item Fridericus imperator cetui cardinalibus» beginnt<sup>9</sup>, dann ist bei «Idem senatui et populo Romano» kein anderer Aussteller möglich. Ebenso gehört das zweite hier behandelte Schreiben in den gleichen Kontext. Dem Kopisten oder seiner Vorlage sind ferner bei der Transkription von Eigennamen der Empfänger der Schreiben Irrtümer unterlaufen. In diesen Zusammenhang gehört wahrscheinlich auch die Bezeichnung *capitaneus* in der Adresse eines neu aufgefundenen Schriftstückes<sup>10</sup>. Dieser Titel war in Rom zurzeit Friedrichs II. offenbar nicht bekannt; hier standen damals ein oder zwei Senatoren an der Spitze der städtischen Selbstverwaltung<sup>11</sup>. Erst nach der Mitte des 13. Jahrhunderts, genauer seit dem Jahre 1254, begegnet auch in der Ewigen Stadt kurzfristig die Funktion eines *capitano del popolo*<sup>12</sup>. Diese politische Realität sowie auch die gleichzeitige Existenz von *capitanei* in anderen italienischen Kommunen könnten zur anachronistischen Verwendung dieser Bezeichnung in der Abschrift des Schreibens Friedrichs II. geführt haben. Wohl eher auszu-

<sup>8</sup> Über die Entdeckung und die Geschichte der Handschrift, die aus der Zeit um 1270 stammt, informiert kurz der Aufsatz von J. Riedmann, *Unbekannte Schreiben Kaiser Friedrichs II. und Konrads IV. in einer Handschrift der Universitätsbibliothek Innsbruck. Forschungsbericht und vorläufige Analyse*, in «Deutsches Archiv für Erforschung des Mittelalters», 62 (2006), S. 135-200. Dort finden sich auch Regesten der einzelnen Stücke. Eine Gesamtedition der Handschrift 400 der Innsbrucker Universitätsbibliothek ist im Rahmen der Monumenta Germaniae Historica in Planung.

<sup>9</sup> Riedmann, *Unbekannte Schreiben* cit., Nr. 8. Zudem enthält die Handschrift in einem anderen Zusammenhang auch einige weitere, bisher unbekannte Stücke an römische Empfänger, die von König Konrad IV. ausgestellt sind; Riedmann, *Unbekannte Schreiben* cit., Nr. 76, 86, 87 und 88.

<sup>10</sup> S. die Edition unten Nr. 2.

<sup>11</sup> Vergleiche jetzt die übersichtliche Liste bei Thumser, *Rom und der römische Adel* cit., S. 354-356.

<sup>12</sup> *Ibidem*, S. 329.

schließen ist hingegen die Möglichkeit, dass die kaiserliche Kanzlei im Original des Schriftstückes eine unzutreffende Bezeichnung verwendet hat.

Bedauerlicher als das Fehlen der Intitulatio in den Texten des Innsbrucker Codex ist der Umstand, dass der unbekannte und derzeit auch nicht näher lokalisierbare Schreiber oder vielleicht auch bereits seine Vorlage nicht immer den vollständigen Wortlaut eines Schriftstückes kopiert hat, sondern dass er sich vornehmlich auf die feierliche Einleitungen des Hauptteiles der Schreiben, also auf Proömium oder Arenga, konzentrierte. Für das erste hier vorgestellte Stück trifft diese Einschränkung einer nur partiellen Wiedergabe sicher zu. Die Kopie endet mit den Worten «et cetera»: ein Usus, der auch sonst im Innsbrucker Codex anzutreffen ist, und den man wohl in erster Linie auf die vermutliche Intention der Überlieferung zurückführen kann, im Sinne der so genannten Formularbehelfe vorbildhafte Muster für feierliche Wendungen, aber fallweise auch für konkrete Anlässe festzuhalten. Möglicherweise ist auch das zweite Schriftstück nur unvollständig überliefert. Dort fehlt zwar das sonst übliche «et cetera», doch der Text endet sehr abrupt. Nahezu alle Schreiben entbehren einer konkreten Datierung. Auch diese festzuhalten – sofern sie überhaupt vorhanden war –, lag offensichtlich nicht in der Intention des Kopisten. Diese Tatsache erschwert verständlicherweise auch die zeitliche und damit oft auch die inhaltliche Einordnung der Stücke. Schließlich ist auf eine weitere Eigenart dieser Textüberlieferung hinzuweisen: Eigennamen werden zumeist durch ein «talīs» ersetzt, also anonymisiert. So fehlt in unseren Schreiben der Name des castrum, dessen «custodes» bei Wirren «in Romanis partibus» sich gegenüber dem Kaiser als treu erwiesen hatten. Man begnügte sich mit einem «talīs»<sup>13</sup>.

Gerade der Verzicht auf konkrete Namen sowie auf Zeitangaben könnte zu der Vermutung führen, dass es sich bei den Stücken im Innsbrucker Codex nicht um echte Schreiben sondern um Stilübungen handelt. Gegen eine derartige Annahme sprechen gewichtige Tatsachen: Eingestreut in bisher unbekannte Texte finden sich auch solche, die anderweitig ebenso überliefert sind – sei es mit dem gleichen Wortlaut oder auch mit geringen Abwandlungen, die dann nicht selten an andere Empfänger gerichtet sind. Zudem fügt sich der konkrete Inhalt, wie er in sehr vielen Schreiben angesprochen ist, ausgezeichnet in die bereits bisher bekannten Zusammenhänge. Schließlich ist darauf zu verweisen, dass ein eventueller “Erfinder” neuer Schreiben wohl stets Kaiser Friedrich II. als Aussteller fingiert hätte und nicht dessen wenig profilierten Sohn. Tatsächlich sind jedoch weitaus die meisten der bisher unbekannten Briefe, Mandate und Diplome in der Innsbrucker Überlieferung im Namen Konrad IV. erlassen. An der Authentizität der Schreiben ist daher nicht zu zweifeln<sup>14</sup>.

<sup>13</sup> Zu den Eigentümlichkeiten der Überlieferung im Innsbrucker Codex und ihre wahrscheinlichen Hintergründe vgl. wiederum Riedmann, *Unbekannte Schreiben* cit., besonders S. 140ff.

<sup>14</sup> Siehe dazu schon Riedmann, *Unbekannte Schreiben* cit., besonders S. 142.



Das erste hier zu behandelnde Schreiben Friedrichs II. wendet sich an den Senat und an das Volk von Rom<sup>15</sup>. In feierlichen Wendungen verweist der Herrscher darauf, dass seine geheimen Gedanken auch der überaus glorreichen Vergangenheit der «urbs» gelten, deren «potens populus» einst mit Hilfe eines günstigen Geschicks zahllose Nationen seiner Herrschaft unterworfen hatte. Nun aber erfüllen den Kaiser die freudige Hoffnung und Zuversicht, dass nach einer langen Periode des Verfalles angesichts der gegenwärtigen Herrschaft der alte Glanz in erneuertem Licht wieder erstrahlen und die «sacra res publica», einst vielfach zerrissen, ihre verlorenen Teile wieder gewinnen und ihre überall hin verstreuten Söhne wie eine «pia mater an die mütterliche Brust zurückrufen werde. Wenn dabei auch allgemein ein Nutzen entsteht, so sieht der Herrscher doch insbesondere Vorteile für die Empfänger des Schreibens, die als «composicionis ipsius rei publice membrum maius et nobilius» angesprochen werden. Um diesen Zustand zu fördern, ist der Herrscher bereit, «imperium et regna nostra», seinen «thesaurus» und auch den seiner Getreuen für seine Anhänger einzusetzen, so dass «paccato orbe terrarum die felicia rei publice tempora redeant et ex antiquo more alme urbis potentia dominetur». Welche konkrete Maßnahmen Friedrich zur Erreichung dieses Zieles angeordnet oder auch nur ins Auge gefasst hat, bleibt uns leider verborgen, denn der folgende Satz bricht nach dieser feierlichen Einleitung mit dem bereits erwähnten «et cetera» ab.

Der auffällige Begriff «sacra res publica begegnet auch in dem zweiten hier vorzustellenden Schriftstück<sup>16</sup>. Es wendet sich an den «capitaneus sacre rei publice» und an das gesamte römische Volk und beginnt wiederum mit allgemeinen feierlichen Erörterungen, in denen der Herrscher unter anderem die Feststellung trifft, dass die «sacra res publica celica dispositione in terris a domino» eingerichtet worden sei. Doch in der jüngsten Gegenwart hat sie nun, selbst ohne eigene Kräfte und ohne notwendige Hilfe, gnädigerweise Aufmerksamkeit erlangt «ad debitam et antiquam reformationem ipsius». Gewiss geschah dies nicht aufgrund menschlicher sondern aufgrund göttlicher Entscheidung und in den Augen des Kaisers auf wunderbare Weise, dass man sich wieder den Taten der Vorfahren zuwandte, welche die gesamte Welt gänzlich der «sacra res publica» unterworfen hatten, und dass man nun danach trachtete, ipsam rem publicam» als Norm und Regel «tocius universalis mundi machine» in den ursprünglichen und angemessenen Zustand zurückzuführen. Der Herrscher, der unter den Fürsten der Welt zum Schutz und Verteidigung durch göttliche Berufung bestimmt ist, bietet dazu freudig seine Dienste an, ohne Rücksicht auf Mühen und Ausgaben, damit alle Welt ersehe, dass der «princeps Romanus», dessen Tätigkeit sowohl das «imperium» wie auch «regna sua» umfasst, für ein derart verdienstvolles und löbliches Werk sich voll einsetzen und sich gleichsam als ein unübersteigbare Mauer allen entgegenstellen werde, die diese angreifen oder übersteigen wollten.

<sup>15</sup> Vergleiche die Edition unten Nr. 1.

<sup>16</sup> Vergleiche die Edition unten Nr. 2.

In diesem Schriftstück findet sich neben dem bereits bekannten Terminus «sacra res publica» auch die Bezeichnung «princeps Romanus» für Kaiser Friedrich II. Diese Selbstaussage des Herrschers begegnet ferner in einem weiteren, im Innsbrucker Codex überlieferten und bisher ebenfalls unbekannten kurzen Schreiben des Herrschers, in welchem dieser die Treue der «custodes» einer namentlich nicht genannten Burg rühmt, als es «in Romanis partibus» zu Wirren gekommen war<sup>17</sup>. Dafür, dass die Besatzung der Burg derart beispielhaft «Romano principi» gedient haben, wird den Empfängern des Briefes rasche Unterstützung zugesichert. Den verschiedenen Versprechungen der Rebellen soll man hingegen keinen Glauben schenken.

«Princeps Romanus» als Selbstbezeichnung Friedrichs II. scheint zweifellos eher selten im einschlägigen überlieferten Schriftgut auf, doch liegt gerade in der Kommunikation des Kaisers mit der Stadt Rom und deren Organe eine derartige Formulierung nahe. Sie begegnet nicht nur ausschließlich in den hier vorgestellten neuen Stücken. Immerhin verwendet der Herrscher diese Bezeichnung auch in seiner bekannten, wohl in das Frühjahr 1238 zu datierenden Aufforderung an die Römer, namentlich genannte Abgesandte der Stadt zu ihm zu senden<sup>18</sup>. Der in diesem Schriftstück anklingende Gedanke, wonach die «felix Roma» einst alle Aufgaben «in principem Romanum» übertragen habe, steht wohl wiederum in einem Zusammenhang mit einem Zitat in den berühmten Konstitutionen Friedrichs, wenn im Kapitel über den Ursprung des Rechtes ebenfalls von der Übertragung des «imperium» von den Quiriten in Romanum principem gesprochen wird<sup>19</sup>, und von hier ergibt sich nahezu zwangsläufig eine Brücke zur Erwähnung des «princeps Romanus» im Prooemium der Institutionen des Justinian<sup>20</sup>. In seinem großen, weit verbreiteten Rechtfertigungsschreiben auf die Vorwürfe Gregors IX. vom April 1239 stellt Friedrich hingegen den «Romanus princeps» dem «Romanus antistes» gegenüber<sup>21</sup>. Fallweise begegnet der Terminus «Romanus princeps» als Bezeichnung des Reichsoberhauptes auch in Diplomen für nichttrömische Empfänger<sup>22</sup>, und als dichterische Anrede für das Reichsoberhaupt fand der Begriff ebenfalls Verwendung<sup>23</sup>.

<sup>17</sup> Vergleiche die Edition unten Nr. 3.

<sup>18</sup> *Historia diplomatica Friderici secundi...*, collegit J.-L-A. Huillard-Breholles Tom. V/2, Paris 1859, S. 760ff.; J.F. Böhmer, *Regesta Imperii V.: Die Regesten des Kaiserreichs unter Philipp, Otto IV, Friedrich II, Heinrich (VII), Conrad IV, Heinrich Raspe, Wilhelm und Richard 1198-1272*, nach der Neubearbeitung und dem Nachlass Johann Friedrich Böhmers neu herausgegeben und ergänzt von J. Ficker, Innsbruck 1881, 1. Bd., Nr. 2199. Zur zeitlichen Einordnung vergleiche J.F. Böhmer, *Regesta Imperii V.: Die Regesten des Kaiserreiches unter Philipp, Otto IV., Friedrich II., Heinrich (VII.), Conrad IV., Heinrich Raspe, Wilhelm und Richard 1198-1272*. 4. Bd: Nachträge und Ergänzungen, bearbeitet von P. Zinsmaier, Köln-Wien 1983, S. 216 (mit weiteren Literaturhinweisen).

<sup>19</sup> *Die Konstitutionen Friedrichs II. für das Königreich Sizilien*, herausgegeben von W. Stürner (Monumenta Germaniae Historica, Constitutiones et acta publica imperatorum et regum. Tomus II. Supplementum), Hannover 1996, S. 185 (Nr. I 31; Sept. 1231).

<sup>20</sup> «Princeps Romanus victor existat non solum in hostibus proeliis».

<sup>21</sup> *Historia diplomatica Friderici secundi* cit., Tom. V/1, S. 304.

<sup>22</sup> Vergleiche etwa *Historia diplomatica Friderici secundi* cit., Tom. II/2, 601 (für den Erzbischof Adalbert von Magdeburg) und 681 (für den Grafen Raimund Berengar von der Provence).

<sup>23</sup> Vergleiche das Zitat des Magister Salvus bei H.M. Schaller, *Die Kaiseridee Friedrichs II.*, in

Auffällig an allen diesen Formulierungen sind die offensichtlichen sprachlichen und inhaltlichen Bezüge auf die römische Vergangenheit – mit einer deutlichen Fokussierung auch auf Verhältnisse, die vor der Epoche der klassischen kaiserlichen Periode des Imperium Romanum liegen, sei es unter den heidnischen wie auch unter den christlichen Herrschern. Auf das große Interesse Friedrichs für die römische Antike, das sich in mehreren eindrucksvollen Gesten, wie etwa die Übersendung des Mailänder *carroccio* nach Rom, manifestierte, hat unlängst auch Hubert Houben hingewiesen<sup>24</sup>, und eben in diesen Zusammenhang gehört wohl auch die Bezeichnung «res publica», die in den hier vorgestellten Schriftstücken meist mit dem Epitheton «sacra versehen ist. «Res publica» begegnet zwar fallweise auch sonst in Schriftstücken des staufischen Herrschers<sup>25</sup>. In der Kombination mit dem Epitheton «sacra» scheint der Begriff bisher jedoch noch keine Beachtung gefunden zu haben. «Sacra res publica» erinnert selbstverständlich sofort direkt an das «sacrum Romanum imperium» und indirekt an die «sancta Romana ecclesia».

Über das Aufkommen des Reichstitels “Heiliges Römisches Reich” hat Jürgen Petersohn eine Studie vorgelegt, in der er auf den entscheidenden Anteil der römischen Skriniiare bei der Entstehung dieser Formel hinweisen konnte. Seit dem ausgehenden 12. Jahrhundert verwendeten Notare in der Ewigen Stadt, welche ihre Legitimation auf den Kaiser zurückführten, immer häufiger die Selbstaussage «sacri Romani imperii scriniarius». Von hier aus hat der Titel seinen Weg in die Reichskanzlei genommen, wo er aber erst nach 1250 zu einem festen Bestandteil wurde<sup>26</sup>.

Rom kann auch als indirekter Ausgangspunkt für die Bezeichnung «sacra res publica» zumindest als Hypothese in den Raum gestellt werden. Ohne eine vollständige Untersuchung der gesamten Überlieferung der Schriftstücke Friedrichs II. vornehmen zu können, muss doch darauf hingewiesen werden, dass bisher allein in den zwei kaiserlichen Schreiben für römische Empfänger diese Bezeichnung nachgewiesen ist. Es fällt auf, dass dabei «sacra res publica» offenbar weder eindeutig und ausschließlich auf die Herrschaftsbereiche des Kaisers noch – in der antiken Tradition – auf die

H.M. Schaller, *Stauferzeit. Ausgewählte Aufsätze*, Hannover 1993 (Monumenta Germaniae Historica, *Schriften* 38), S. 53-83, besonders 72f. Diesen Hinweis verdanke ich Herrn O. Hageneder (Wien); siehe dazu W. Stürner, *Friedrich II.*, Teil 2: *Der Kaiser 1220-1250*, Darmstadt 2003, S. 363f.

<sup>24</sup> Houben, *La componente romana* cit., besonders S. 46.

<sup>25</sup> In den bisher erschienenen zwei Bänden der Edition der Diplome Friedrichs II. wurde *res publica* nach dem Ausweis der Indices in 462 Urkunden nur zweimal verwendet; *Die Urkunden der deutschen Könige und Kaiser*. Bd. 14/2: *Die Urkunden Friedrichs II. 1212-1217*, bearbeitet von W. Koch (Monumenta Germaniae Historica. *Diplomata regum et imperatorum Germaniae*, XIV/2), Hannover 2007, Nr. 199 (übernommen aus der Vorurkunde König Philipps) und Nr. 253 (übernommen aus der Vorurkunde Kaiser Friedrichs I.). Allerdings eignet sich der beschränkte Zeitraum in der kritischen Edition der Diplome (bis 1217) nur sehr bedingt für Aussagen oder Vergleiche über Diktatgewohnheiten in der kaiserlichen Kanzlei in späteren Jahrzehnten.

<sup>26</sup> Petersohn, *Rom und der Reichstitel* cit.

Kompetenz des Senats der «urbs» bezogen wird. Für eine erforderliche systematische Analyse dieses Phänomens wäre allerdings – nach dem Vorbild von Jürgen Petersohn – zumindest auch in einer breiten Basis die stadtrömische Überlieferung an Urkunden heranzuziehen. Auf Anhieb springt dabei jedoch eine unübersehbare Parallele ins Auge: Der Senat der «urbs» verwendet in seinen Schriftstücken in den 30er Jahren des 13. Jahrhunderts als Selbstbezeichnung häufig, wenn auch nicht konsequent, das Epitheton «sacer», etwa in der Kombination «decreto et auctoritate sacri senatus, protectio sacri senatus, sacri senatus auctoritas oder sigillum sacri senatus»<sup>27</sup>. Die «sacra res publica würde sich in diese Zusammenhänge einer gerade in Rom verstärkten Berufung auf transzendente, sakrale Grundlagen einer ehrwürdigen historischen Institution einfügen – immer vor dem Hintergrund der Analogie und auch einer gewissen Konkurrenz zur «sancta Romana ecclesia». Damit könnten sich auch in den entsprechenden Titulaturen die in diesen Jahrzehnten höchst aktuelle Konkurrenz von Papsttum und Kommune in der Ewigen Stadt widerspiegeln.

Beim Versuch einer genaueren zeitlichen Einordnung der undatiert überlieferten Schriftstücke und – damit eng verbunden – ihrer inhaltlichen Interpretation ergeben sich sofort deutliche Möglichkeiten der Eingrenzung: Friedrich hat Rom selbst auffällig selten aufgesucht. Nach seiner Kaiserkrönung kam es nur in einer kurzen Zeitspanne, in der 2. Hälfte der 30er Jahre des 13. Jahrhunderts zum Versuch einer engeren Zusammenarbeit zwischen dem staufischen Herrscher und der Ewigen Stadt. Offenkundig sind die ausgeprägten Parallelen in den bisher unbekannten Stücken und den bereits vielfach interpretierten Schreiben Friedrichs II. an römische Empfänger aus dieser Periode. Damals setzte «des Staufers intensives Werben um die Gunst gerade Roms» ein, das in mehrere Manifesten mündete, «wahre sprachliche Meisterwerke» der kaiserlichen Kanzlei<sup>28</sup>.

Wohl im August des Jahres 1236 berief sich der Kaiser gegenüber dem Senator, dem Senat und dem Volk von Rom mit eindringlichen Worten auf seinen Eifer, «ad reformationem imperii et decus urbis». Er verwies unter anderem auch auf die Größe der Stadt in der Vergangenheit und auf die Verdienste der Vorfahren, welche die Stadt gegründet haben, in die «velut in omnium urbium caput per sedem imperii totius rei publice summa translata». Die heute lebenden Bewohner der «urbs» hätten sich dieser Taten nach der Auffassung des Kaisers kaum würdig erwiesen, obwohl Friedrich «pro exaltatione Romani imperii personam exposuit, thesauros aperuit, laboribus non pepercit». Die Römer sind nicht einmal der kaiserlichen Aufforderung nachgekommen, Gesandte an den Hof des Herrschers zu entsenden<sup>29</sup>. Es sind inhaltlich wenn auch nicht wörtlich die gleichen Gedanken und

<sup>27</sup> *Codice diplomatico del senato Romano dal MCXLIV al MCCCXLVII*, a cura di F. Bartoloni, Bd. 1, Roma 1948 (Fonti per la storia d'Italia, 87), Nr. 86, 95, 98, 108, 111 und 114.

<sup>28</sup> So Stürner, *Friedrich II.* cit., S. 339 (mit weiteren Hinweisen auf Quellen und Literatur).

<sup>29</sup> *Historia diplomatica Friderici secundi* cit., Tom. IV/2, S. 901-903.

Formulierungen, die hier wie im ersten zu edierenden Schreiben anzutreffen sind, und diese Feststellung trifft auch für die folgenden Stücke zu.

Als sich der Herrscher im Sommer 1237 abermals an die Senatoren, Konsuln und das römische Volk wandte, betonte er darin unter anderem die Bedeutung des «*Romani nominis titulus*» im Rahmen des «*imperium*» und die beabsichtigte Fortführung «*Romani regiminis*»<sup>30</sup>. Im Frühjahr des folgenden Jahres 1238 kam es dann zum spektakulären Akt der Übersendung des vom Kaiser erbeuteten mailändischen carroccio nach Rom und seine demonstrative Aufstellung auf dem Kapitol. Rom spielte damals in den Vorstellungen des Herrschers eine zentrale Rolle. «*Roma*» lautete der Schlachtruf der siegreichen kaiserlichen Truppen, und «*decus urbis*» sowie «*urbis honor*» begegnen als hervorragende Begriffe im Schreiben des Herrschers ebenso wie der Hinweis auf die Großtaten der Vorfahren<sup>31</sup>. «*Cum Romani imperii nostri sedem Italiam pacatam videbimus*» in diesem Aufruf erinnert spontan an «*paccato orbe terrarum felicia tempora reipublice redeant*» im ersten hier zu edierenden Schriftstück. Ebenso in das Frühjahr des Jahres 1238 datiert wird ein weiterer schriftlicher Kontakt des Staufers mit der Ewigen Stadt, in dem er neuerlich um die Sendung von Gesandten an seinen Hof ersucht<sup>32</sup>. Betont wird das stetige Bemühen des Kaisers, im Rahmen der Erneuerung des «*imperium Romanum...Romam in statu dignitatis antique ac proceres ac cives suos, cum quibus respublica consuevit hactenus longe lateque magnificis titulis exaltari*», wieder die zustehende Position zukommen zu lassen. In diesem Zusammenhang stößt man auch auf die bereits kurz gewürdigte Titulierung des «*princeps Romanus*» als Bezeichnung für den Herrscher.

Die meisten dieser Schreiben reihen sich ein in jene Periode Friedrichs II., als der Kaiser nach dem Sieg bei Cortenuova über die Lombarden im Herbst 1237 auf dem Höhepunkt seiner Macht stand. Auch der Einfluss des Papstes schien damals entscheidend zurückgedrängt. Insbesondere in Rom, das Gregor IX. vorübergehend hatte sogar verlassen müssen, dominierten stadtrömische Geschlechter<sup>33</sup>. Es ist wohl bezeichnend, dass das Papsttum in keinem der hier kurz behandelten, weder in den bereits bekannten noch in den neu aufgefundenen Schreiben, in irgendeiner Weise direkt Erwähnung findet.

Alle Indizien deuten also darauf hin, dass es sich bei den im Codex 400 der Innsbrucker Universitätsbibliothek überlieferten, bisher unbeachteten Schriftstücken des staufischen Herrschers an römische Empfänger um weitere Glieder handelt «in der Reihe der propagandistischen Manifeste, die Friedrich

<sup>30</sup> *Acta imperii inedita seculi XIII. Urkunden und Briefe zur Geschichte des Kaiserreichs und des Königreichs Sicilien in den Jahren 1198 bis 1273*, herausgegeben von E. Winkelmann, Innsbruck 1880, S. 300f., Nr. 340.

<sup>31</sup> *Historia diplomatica Friderici secundi* cit., Tom. V/1, S. 161-163.

<sup>32</sup> *Ibidem*, Tom. V/2, S. 760-782.

<sup>33</sup> Vergleiche ausführlicher zu den Verhältnissen in Rom in dieser Zeit das Kapitel "Rom im Brennpunkt der Propaganda Friedrichs II. (1236-1238)" im Buch von Thumser, *Rom und der römische Adel* cit., S. 281-294 (mit ausgiebiger Berücksichtigung der älteren einschlägigen Literatur).

in diesen Jahren an den römischen Senat richtete und die zusammengekommen einen wichtigen Bestandteil der politischen Publizistik des Kaisers bilden», wie dies Matthias Thumser für die bereits bekannten eindrucksvollen Schreiben formuliert hat<sup>34</sup>. Die im Anhang edierten Stücke fallen sehr wahrscheinlich in den sehr beschränkten Zeitraum von 1236-1238, als der Herrscher sich intensiv um die Gunst der führenden Geschlechter in der «urbs» bemühte.

Die neu aufgefundenen Stücke passen schließlich auch in eine Lücke der schriftlichen Überlieferung, die aufgrund historiographischer Nachrichten und von Hinweisen in den einschlägigen Schreiben bereits als solche erkannt worden ist. So postulierte Matthias Thumser mit Hinweisen auf eine Nachricht bei Riccardo di San Germano und in einem späteren kaiserlichen Manifest überzeugend ein Deperditum Friedrichs II. an die Stadt Rom aus dem Sommer 1236<sup>35</sup>. Für eine einigermaßen fundierte Gleichsetzung dieses verlorenen Schreibens mit einem der im Anhang edierten Texte reichen die Argumente jedoch nicht aus.

Nr. 1

*Kaiser Friedrich rühmt mit feierlichen Worten gegenüber Senat und Volk von Rom die Vergangenheit und die gegenwärtige Bedeutung der urbs (unvollständig)*

—, —

Universitätsbibliothek Innsbruck, Handschrift 400, fol. 118r  
Regest: Riedmann, *Unbekannte Schreiben* cit., Nr. 9.

Idem senatui et populo Romano

Dum inter archana pectoris nostri vigili meditatione revolvimus statum illum excellentissimum urbis, quo potens populus arridentibus fatis nationes orbis innumeras imperio suo subegerat, cuius terminos ab ortu solis metiens inter tam prolixi cursus discrimina languescebat, spem iocundam concipimus infallibiliter opinantes, quod illud profundi consilii iubar, quod exanguis remissio tam diu latibulis suis abdiderat, sub presentis conspiciuitate principii redivivo iam in vobis lumine resultabit et sacra res publica, multiplex olim perpressa discidium ex partibus reintegrata prioribus, filios hinc inde dispersos velut pia mater ad materne sedulitatis ubera revocabit, in quo et si totius generalitatis contineatur utilitas in hoc tanto specialius vestra comoda prevedimus, quanto vos compositionis ipsius rei publice membrum maius et nobilius reputamus. Ad quam felicibus auspiciis promovendam imperium et regna nostra thesaurum(!) nostrum nostrorumque fidelium affectibus promptis exponimus illud desiderabiliter expectantes, ut paccato orbe terrarum felicia rei publice tempora redeant et ex antiquo more alme urbis potentia dominetur. Verumtamen quam ardentibus ad magnificationem ipsius urbis et cetera.

<sup>34</sup> Thumser, *Rom und der römische Adel* cit., S. 283.

<sup>35</sup> *Ibidem*, S. 282f.

Nr. 2

*(Kaiser Friedrich) wendet sich mit feierlichen Worten an den capitaneus sacre rei publice sowie an das ganze römische Volk und versichert ihnen seine kaiserliche Unterstützung bei der Wiederherstellung der alten Größe (unvollständig?)*

—, —

Universitätsbibliothek Innsbruck, Handschrift 400, fol. 118v-119r  
Regest: RIEDMANN, *Unbekannte Schreiben* cit., Nr. 11

Capitaneo sacre rei publice totique populo Romano dilectis sibi gratiam suam et omne bonum

Celestis altitudo consilii, que singula sic providentia divina disponit, ut nec error in ordine nec in opere sit defectus, sacram rem publicam celica dispositione in terris a domino constitutam, positam ab antiquo in superbia seculorum, sed modernis temporibus vergente in senium populi corruptela viribus propriis et auxilio debito destitutam, oculo miserationis dignata est respicere et ad debitam et antiquam reformationem ipsius aures et animum inclinare. Sane cum non humana sed divina pocius dispensatione sit factum a domino et mirabile in oculis nostris, ut ad progenitorum vestrorum gesta, qui totum mundum universaliter sacre rei publice subdiderunt, oculos cordis et capitis revolventes, velut filii nati pro patribus, ipsam rem publicam, tocus universalis mundi machine normam et regulam, ad primitivum statum et debitum reducere intendatis, nos, qui inter mundi principes ad manutenendam et defendendam eandem divina sumus vocatione vocati, operum et processuum nostrorum primitias vobis hilariter offerentes personam exponimus, laboribus quibuslibet et dispendiis non parcentes, ut aperte cognoscant singuli et manifeste videant universi, quod princeps Romanus, cuius negotium agitur tam imperium quam regna sua, pro tam pio et laudabili proposito velit effundere et opponere se murum inexpugnabilem quibuslibet insultantibus seu ascendentibus ex adverso.

Nr. 3

*Kaiser Friedrich lobt die Ergebenheit der custodes einer namentlich nicht genannten Burg während der Wirren in Romanis partibus und ermahnt sie zu weiterer Treue*

—, —

Universitätsbibliothek Innsbruck, Handschrift 400, fol. 126v  
Regest: Riedmann, *Unbekannte Schreiben* cit., Nr. 28

Idem custodibus talis castris

Grata est in conspectu nostro vestre fidelitatis constancia, quod, sicut intelleximus, in tanto perversionis turbine in Romanis partibus pre ceteris claruit fides vestra. Quare sic vobis et posteris vestris gratie nostre plenitudinem comparastis et ad digna nos statuistis merita debitores, ut gaudere securiter valeatis nobis Romano principi servivisse et alii in vobis purioris fidei speculum videant et exemplar. Ceptis igitur insistere vos volumus, tam de retributione nostra quam de celeri et potenti succursu nostro securos, nullam variis verbis seu promissionibus nostrorum rebellium fidem adhibentes.





# ***Zum römischen “Weihetourismus” unter Papst Alexander VI. (1492-1503)\****

von Ludwig Schmugge

Die Kirche des späten Mittelalters darf mit Fug und Recht als der mit Abstand größte Arbeitgeber der Christenheit bezeichnet werden. Jahr aus Jahr ein waren nicht nur Prälaturen, Bischofsthronen und Kanonikate mit geeigneten Kandidaten zu besetzen, ebenso boten Zehntausende Pfarren, Vikarien und Altäre Brot und Lohn für Männer, die sich zum geistlichen Dienst berufen fühlten. Die päpstliche Kurie entwickelte sich, einmal abgesehen vom konstanten Andrang von Pilgern und Büßern, aus verschiedenen Gründen zum Zentrum eines “Weihetourismus”, der anhand der Supplikenregister der Pönitentiarie als ein Phänomen der “juristischen Realgeschichte” der Zeit um 1500 untersucht werden soll.

## ***1. Rechtsgrundlagen<sup>1</sup>***

Einen “Weihetourismus” nach Italien und Rom scheint es bereits im 13. Jahrhundert gegeben zu haben. Darauf lässt jedenfalls die Konstitution Papst Clemens IV. *Saepe contingit* vom 11. Juli 1266 schließen. 1275 verfügte das 2. Konzil von Lyon sogar die Suspension vom Amt für jeden italienischen Bischof, der es wagen sollte, fremde Kleriker zu weihen<sup>2</sup>. Die Anziehungskraft Roms für pfründensuchende und (damit zusammenhängend) auf geistliche Weihen angewiesene Kleriker erhielt durch den *Liber sextus* Papst Bonifaz’ VIII. im Jahre 1298 noch einen kräftigen Schub. Die Dekretalen bewirkten, dass «der Weg zur eigenen Pfründe via Avignon oder Rom für lange Zeit

\*Es werden die folgenden Abkürzungen verwendet:

ASV      Archivio Segreto Vaticano  
COD      *Conciliarum Oecumenicorum Decreta*  
PA      Poenitentiarie Apostolica  
RG      *Repertorium Germanicum*  
RPG      *Repertorium Poenitentiarie Germanicum*

<sup>1</sup> Zur Einführung in die Problematik O. Condorelli, *Clerici peregrini. Aspetti giuridici della mobilità clericale nei secoli XII-XIV*, Roma 1995 (I libri di Erice, 12).

<sup>2</sup> COD, ed. G. Alberigo, 3. Aufl. Bologna 1973, S. 322.

attraktiver war als jener über den ordentlichen Kollator»<sup>3</sup>. Pfrundbesitz und Weihe waren rechtlich eng gekoppelt: Jeder Inhaber einer Kuratpfründe musste spätestens nach Jahr und Tag mindestens die Subdiakonsweihe empfangen haben, umgekehrt durften höhere Weihen nur an bepfündete Kleriker erteilt werden.

Es gab vier wesentliche Voraussetzungen für eine korrekte Ordination: Bildung, Alter, Pfründe und körperliche Unversehrtheit. Von allen Weihekandidaten wurde der durch ein Examen zu belegende Nachweis von Lateinkenntnissen und Fähigkeiten im Singen verlangt, Universitätsabsolventen waren davon ausgenommen. Die Erteilung der *ordines* hatte in erster Linie durch den Ortsbischof zu erfolgen<sup>4</sup>. Wer sich durch einen anderen Bischof weihen lassen wollte, musste eine *littera dimissoria* vorlegen. Das galt im Prinzip auch für Weihen an der Kurie, doch der Papst konnte davon dispensieren. Für alle höheren *ordines* war der Nachweis eines *titulus* erforderlich, einer den Unterhalt des Geweihten sichernden Funktion bzw. einer Pfründe, denn «wer am Altare dient, soll auch vom Altare leben» (I Korinther 9,13). Das 3. Laterankonzil hatte im Kanon 5 für die Priesterweihe ein Mindestalter von 25 Jahren Voraussetzung gemacht<sup>5</sup>, Innozenz III. auch für die Subdiakonsweihe den Nachweis eines *titulus* gefordert<sup>6</sup>. Seit Gregor IX. diese Bestimmungen in den *Liber extra* hatte aufnehmen lassen, waren sie allgemein bekannt. Das Konzil von Vienne 1311-1312 schließlich legte ein definitives Mindestalter auch für den Subdiakonat (18 Jahre) und den Diakonat (20 Jahre) fest<sup>7</sup>.

Fast 200 Jahre nach Clemens IV. versuchte Papst Pius II. erneut, dem unkontrollierten "Weihetourismus" Einhalt zu gebieten. Er wiederholte und verschärfte die bereits bestehenden Strafen für unerlaubten Weiheempfang in einer Konstitution vom 17. November 1461 mit den Anfangsworten *Cum ex sacrorum*. Wer sich entgegen dieser Norm in Italien hatte weihen lassen, musste sich durch Rom von der Exkommunikation *ipso facto* absolvieren und von der damit verbundenen *inhabilitas* und *irregularitas* dispensieren lassen<sup>8</sup>. *Cum ex sacrorum*

<sup>3</sup> A. Meyer, *Arme Kleriker auf Pfründensuche*, Köln-Wien 1990 (Forschungen zur kirchlichen Rechtsgeschichte und zum Kirchenrecht, 20. Band), S. 5.

<sup>4</sup> Gratian hatte einen Kanon des Konzils von Antiochia von 332 in sein Dekret aufgenommen, der dem Ordinarius die volle Weihegewalt in seinem Sprengel zugestand, *Decretum Gratiani* C. IX q.3 c.2: «Unumquemque episcopum oportet habere suae diocesis potestatem, ut... ordinare ei presbiteros et diaconos... liceat». Ed. Friedberg, Band I Sp. 606.

<sup>5</sup> COD, S. 214 (H): «Episcopus si aliquem sine certo titulo, de quo necessaria vitae percipiat, in diaconum vel presbyterum ordinauerit, tamdiu necessaria ei subministret, donec eidem in aliqua ecclesia convenientia stipendia militiae clericalis assignet, nisi forte talis sit qui ordinatus exstiterit, qui de sua vel paterna hereditate subsidium vitae possit habere».

<sup>6</sup> *Liber extra* 3.5.16, ed. Friedberg, Band II Sp. 469. Für Köln vgl. J. Janssen, *Geschichte des Erzbistums Köln im späten Mittelalter*, 2 Bände, Köln 199-2003, hier 2. Teil, S. 50f.

<sup>7</sup> *Clementinen* 1.6.3, ed. Friedberg, Band II Sp. 1140. L. Schmugge, P. Hersperger, B. Wiggenhauser, *Die Supplikenregister der päpstlichen Pönitentiarie aus der Zeit Pius' II. (1458-1464)*, Tübingen 1996 (Bibliothek des Deutschen Historischen Instituts in Rom, 84), S. 196f.

<sup>8</sup> Dazu F. Gillmann, *Zur Geschichte der Ausdrücke irregularis und irregularitas*, in «Archiv für katholisches Kirchenrecht», 91 (1911), S. 49-86 und 557-560.

wird in den Pönitentiariesuppliken bereits unter Pius II. über 26 Mal, unter Paul II. von 74 Bittstellern, bei Sixtus IV. von 97, bei Innozenz VIII. von 63 und bei Alexander VI. von 70 Supplikanten allegiert<sup>9</sup>.

Damit sind die Grundlagen des Weiherechts und die häufigsten aus der Übertretung der Normen sich ergebenden Weihhindernisse knapp umschrieben. Doch die juristischen Normen spiegeln die Realität nicht, diese sah anders aus. Aus welchen Quellen nun kann man die "juristische Realgeschichte" rekonstruieren? Welche Ausmaße hat der "Weihetourismus" im Spätmittelalter angenommen? Mehrere Bestände des Vatikanischen Archivs und anderer römischer Archive geben Auskunft über den Andrang beim außerordentlichen Kollator in Rom<sup>10</sup>. Neben den Supplikenregistern der Kanzlei sind es die Register *in forma pauperum*, die *Libri formatarum*<sup>11</sup>, ein Verzeichnis der an der Kurie vorgenommenen Weihen, und die Suppliken von Petenten, welche sich wegen eines Weihhindernisses an die Pönitentiarie gewandt hatten sowie die von Andreas Rehberg erstmals ausgewerteten Listen im Vikariats- und Staatsarchiv. Für das deutschsprachige Mitteleuropa sind die Vatikanischen Quellen in Regestenform im *Repertorium Germanicum*<sup>12</sup> (bis 1471) sowie im *Repertorium Poenitentiariae Germanicum* (bis 1503) publiziert. Die Pönitentiarieregister weisen in der Rubrik *De promotis et promovendis* insgesamt 1827 Suppliken aus dem deutschsprachigen Gebiet um einen Weihedispens auf (Calixt III. 89, Pius II. 170, Paul II. 233, Sixtus IV. 334, Innozenz VIII. 308 und Alexander VI. 693). Davon betreffen 546 Bittschriften nachweislich eine Weihe in Rom. Dort gab es zwei Instanzen, in deren Auftrag geistliche

<sup>9</sup> Siehe die Indices der Bände RPG IV bis VIII, *sub voce*. Vgl. z.B. VIII 5826 bis 5832. Ferner Schmugge, Hersperger, Wiggenhauser, S. 200.

<sup>10</sup> Vgl. A. Rehberg, *Deutsche Weihelikandidaten in Rom am Vorabend der Reformation*, in *Kurie und Region. Festschrift für Brigide Schwarz zum 65. Geburtstag*, hrsg. von B. Flug, M. Matheus, A. Rehberg (Geschichtliche Landeskunde, 59) Stuttgart 2005, S. 277-305.

<sup>11</sup> Über die Weihen in der Kammer geben die *Libri formatarum* Auskunft. Zu diesen Weiheregistern (ASV, Camera Apostolica, Libri formatarum) vgl. L. Schmitz, *Die Libri formatarum der Camera Apostolica* (Römische Quartalschrift 8, 1894), S. 451-472. Zuletzt A. Pořizka, *Ordinandi delle terre Boeme presso la curia pontificia negli anni 1420-1447*, in «Bollettino dell'Istituto Ceco di Roma», 3 (2002) S. 32-55 und Z. Hledíková, *Libri formatarum*, in *Per secula ad tempora nostra. Festschrift für Jaroslav Pánka*, hrsg. von J. Mikulec und M. Polívka, Praha 2007 (Opera Instituti historici Pragae, Rada C: Miscellanea 18/1-2), S. 69-78. Die unter den Päpsten Innozenz VIII. und Alexander VI. in der Kammer vorgenommenen Weihen sind in den Bänden 8 bis 13 zum Teil dokumentiert, enthalten allerdings bei weitem nicht alle Ordinationen und sind «häufig erst sehr lange nach der Erteilung» eingetragen worden, Schmitz, S. 455-456 und 461.

<sup>12</sup> *Repertorium Germanicum* (RG): Verzeichnis der in den päpstlichen Registern und Kameralakten vorkommenden Personen, Kirchen und Orte des Deutschen Reiches, seiner Diözesen und Territorien vom Beginn des Schismas bis zur Reformation, hrsg. vom Deutschen Historischen Institut in Rom, Bisher IX Bände (1378-1471), diverse Bearbeiter, Tübingen. *Repertorium Poenitentiariae Germanicum* (RPG): Verzeichnis der in den Supplikenregistern der Pönitentiarie vorkommenden Personen, Kirchen und Orte des Deutschen Reiches, bisher 8 Bände (1438-1503), bearbeitet von L. Schmugge und Mitarbeitern, Indices von H. Schneider-Schmugge, Tübingen 1995ff. Das RPG wird im Folgenden nur mit der Bandnummer (römische Ziffern) und der Nummer der betreffenden Supplik (arabische Ziffern) zitiert.

Weihen durch Kurienbischofe legal erteilt wurden: Die *camera apostolica* und der *vicarius urbis*<sup>13</sup>. Für Nicht-Römer war nur die Erstere zuständig, für Römer und ausländische Kuriale der Vikar.

## 2. *Exspectativen* in forma pauperum

Eine spezielle Form des "Weihetourismus" hatten die Päpste mit den *Exspectativen in communi forma pauperum* selbst geschaffen. Clemens V. (1305-1314) hatte erstmals «die Verfügungsgewalt über die Pfründen als politisches Mittel eingesetzt»<sup>14</sup>, indem er in Avignon anwesenden Klerikern Pfründen in Aussicht stellte. In der zweiten Hälfte des 14. Jahrhunderts sind jeweils einige Tausend Petenten<sup>15</sup> nur deshalb an die Kurie gekommen, um ein Benefiz in *communi forma pauperum* zu erbitten<sup>16</sup>. Waren im Jahre 1407 noch 860 arme Petenten (das heißt aber nur Kleriker ohne Benefiz) nach Rom gekommen, so sank die Gesamtzahl der *pauperes* bedingt durch die diversen Konkordate, vor allem das Wiener Konkordat von 1448<sup>17</sup> und die *reservatio octo mensium*, während der 8 Jahre des Pontifikats Papst Pauls II. auf 1100 Supplikanten, worunter nur 20 Graduierte aufgeführt waren<sup>18</sup>. Sixtus IV. ließ in 14 Jahren nur noch zwei Petitionstermine für *pauperes* ansetzen, nämlich Ende 1471 und Ende 1481, während Innozenz VIII. (1486) und Alexander VI. (1496) nur je einen Termin anboten<sup>19</sup>. Es ist nicht bekannt, wie viele Pfründensuchende diesem Angebot nachkamen. Dass indes auch in der zweiten Hälfte des 15. Jahrhunderts und darüber hinaus mit dem Andrang von Hunderten von Weihewilligen an der römischen Kurie zu rechnen ist, zeigt die Auswertung der römischen Vikariatsregister durch Andreas Rehberg: 1517 wurden durch den *vicarius urbis* 941 Männer zu den *ordines* befördert und 1521 deren 702<sup>20</sup>.

## 3. *Feiern Bischöfe keine ordinationes generales?*

Es waren aber nicht nur rechtliche Weihhindernisse, welche Kleriker dazu veranlassten, den Weg nach Italien bzw. nach Rom unter die Füße zu nehmen. Petenten erklärten, sie seien an die Kurie gekommen, weil ihr Bischof niemals oder nur höchst selten die an den *quatuor temporibus*, den

<sup>13</sup> Vgl. dazu Rehberg, S. 277f.

<sup>14</sup> Meyer, S. 3.

<sup>15</sup> Die Zeitgenossen haben diesen Andrang durchaus wahrgenommen, wenn ihre Zahlen auch stark übertrieben sind, dazu Meyer, S. 6-13.

<sup>16</sup> Meyer hat diese Form der Pfründenreservierung eingehend untersucht.

<sup>17</sup> A. Meyer, *Das Wiener Konkordat - eine erfolgreiche Reform des Spätmittelalters*, in «Quellen und Forschungen aus Italienischen Archiven und Bibliotheken», 66 (1986), S. 108-152.

<sup>18</sup> Meyer, S. 53 Anm. 189.

<sup>19</sup> Meyer, S. 72.

<sup>20</sup> Rehberg, S. 301.

Quatembertagen, vorzunehmenden *ordinationes generales* durchführe<sup>21</sup>. Dies scheint eher eine Schutzbehauptung gewesen zu sein.<sup>22</sup> Allerdings will auch die als «Reformatio Sigismundi» bekannte Basler Reformschrift von 1439 den Ordinarien die Anstellung von Weihbischöfen verbieten und sie zwingen, alle höheren Weihen in eigener Person zu spenden<sup>23</sup>. Gelegentlich behaupten Bittsteller gegenüber der Pönitentiarie, sie wollten die Weihen in der Heimatdiözese nicht empfangen, weil der Ordinarius den Kandidaten unannehmbare Bedingungen stelle. Der Bischof von Raab in Ungarn soll von den von ihm geweihten Priestern verlangt haben, dass sie ein Jahr lang auf eigene Kosten an seiner Kathedrale Dienst täten<sup>24</sup>. Die Klage, ihr Heimatbischof führe keine *ordinationes generales* durch, wird besonders häufig von spanischen Bittstellern vorgebracht<sup>25</sup>.

Es kam außerdem vor (und scheint bis zu einem bestimmten Betrag auch legitim gewesen zu sein), dass der Weihende Bischof eine Gebühr erhob, eine in Rom ebenso gängige Praxis wie *in partibus*<sup>26</sup>. Ein Straßburger Kleriker bekannte 1467, einem Weihbischof (allerdings für eine Altarweihe) 6 Gulden bezahlt zu haben, ein Freisinger Kollege hatte den Bischof von Ferentino bestochen, damit der ihn ordinierte<sup>27</sup>. Andreas Melzer aus Prag war zur Diakonsweihe in Rom 1492 erst nach einer Handsalbe für den Schreiber bzw. Notar zugelassen worden, einen Straßburger Diakon hatte die Subdiakonsweihe zwei Gulden, die zum Diakon zwei Groschen gekostet, einem Kollegen aus Konstanz der Aufstieg zum Subdiakon gar 18 Schillinge<sup>28</sup>.

#### 4. Studenten und Bastarden

Manche Kleriker, etwa Studenten, konnten legitime Gründe vorbringen, warum sie in Italien die *ordines* empfangen wollten. Als Studienorte dieser Kleriker aus dem Gebiet nördlich der Alpen werden die Universitäten von Bologna und Padua<sup>29</sup> mehrfach genannt, seltener

<sup>21</sup> V 3841: Pomesanien. V 3955: Aquileia, «semel in anno»; VI 6631: Aquileia, «ordinarius suus a magno tempore citra ordines non tenuit nec in futurum tenere speratur»; VI 6449: Lausanne, «duo [episcopi] super episcopatum collitigant adeo, quod ordines minime celebrantur». Zu den Weiheregistern *in partibus* Rehberg, S. 282f.

<sup>22</sup> In Prag wurden um 1400 jährlich im Durchschnitt 129 Priester geweiht, E. Dolezalová, *Ways of clerics to ordination in the post-Hussite Bohemia*, in *Roma-Praga, Praha-Rim. Omaggio a Zdenka Hledikova*, Praga 2009 (Bollettino dell'Istituto Storico Ceco di Roma, supplemento), S. 145-158, hier S. 146.

<sup>23</sup> H. Koller (Hg.), *Reformation Kaiser Siegmunds*, Stuttgart 1964 (MGH, *Staatsschriften des späteren Mittelalters* 6), S. 146.

<sup>24</sup> V 1550, 1468.

<sup>25</sup> Ein Beispiel aus dem Heiligen Jahr 1500 von einem Scholaren aus Santiago di Compostella: .... *ordinarius suus in dioc. Compostellan. ordines generales per se vel alium non celebrat*...., ASV, PA 49 fol. 589r. Wortwörtlich auch ASV, PA 49 fol., 594v und fol. 605v.

<sup>26</sup> Zum Vorwurf der Käuflichkeit der Weihen in Rom Rehberg, S. 285f.

<sup>27</sup> V 1353 und VI 2133.

<sup>28</sup> VIII 5273, V 3925 und 3989.

<sup>29</sup> Für Padua existieren Weihelisten, vgl. Rehberg, S. 289 Anm. 75.

Perugia, Rom und Siena<sup>30</sup>. In einer ähnlichen Lage wie Studenten befanden sich deutsche Kleriker, die in den Dienst ultramontaner Bischöfe getreten waren, und nun von ihrem Arbeitgeber geweiht werden wollten. Nur als Beispiel: Als Dienstherren deutscher Kleriker in Italien genannt werden in den Pönitentiariesuppliken unter anderen der Kardinal Capranica in Rom<sup>31</sup>, der Abt von Sankt Stephan in Bologna<sup>32</sup>, der Bischof von Brixen<sup>33</sup> sowie der von Asti<sup>34</sup>. Nicht zum Studium und auch nicht zum Bischofsdienst hielt sich eine andere Kategorie von Ultramontanen in Italien auf, fürstliche Bastarden, die zur Vermeidung von Skandalen vom Hof des Vaters ins Ausland verschoben worden waren. Für diese Spezies möge Johannes Brandenburgensis als Beispiel herhalten, der illegitime Sohn des Kurfürsten Johannis des Alchimisten (†1464), den sein Vater zur Markgräfin Barbara von Mantua, seiner ehelich gezeugten Tochter, ausgelagert hatte, die seit 1433 mit dem Mantuaner Herzog verheiratet war. Johannes der Brandenburger ließ sich mit Dispens vom *defectus natalium* um 1471 vom Bischof von Mantua regulär zum Priester weihen<sup>35</sup>.

##### 5. *Dispens vom defectus corporis*

Für eine gültige Weihe verlangte die Kirche auch, dass der Kleriker frei von Gebrechen sei, insbesondere auf die Unversehrtheit der Augen und Gliedmaßen wurde geachtet. Raymund von Peñafort hatte im *Liber Extra* (*De corpore vitiatis ordinandis vel non*)<sup>36</sup> zulässige Ausnahmen von dieser Norm diskutiert. Deshalb konnte eine Behinderung an den Gliedmaßen oder den Augen ein Grund sein, nach Rom zu wandern, nämlich dann, wenn sich ein Mann in die *militia clericalis* einordnen wollte, wie es im kurialen Formular hieß, der von dem für die Weihe zuständigen Ordinarius aber wegen eines *defectus corporis* nicht zum Priesterstand zugelassen worden war. An der Kurie hatte sich die Praxis eingebürgert, dass sich der Behinderte einer von der Pönitentiarie bestellten dreiköpfigen Kommission von Kurienbischöfen vorzustellen hatte, die offenbar den Kandidaten auch examinierten<sup>37</sup>. Sie hatten zu prüfen, ob er den Dienst am Altar ungeachtet seines körperlichen Mangels erfüllen konnte, ohne dass für das Gottesvolk ein *scandalum* daraus erwuchs. Allein aus der Zeit Pius II. sind 31 einschlägige

<sup>30</sup> Bologna: III 61, 576; IV 1668, 3316, 3319; V 3834, 3865; VI 2080, 6479, 6684; VII 2033; VIII 2517, 5337, 5636, 5917; Padua: III 102, 103; V 3915, 3988; VI 838, 3109, 3915, 3988, 6446, 6494; Perugia: V 3843, 3844, 3936. Rom: III 575; VI 2770; Siena: V 951.

<sup>31</sup> III 208.

<sup>32</sup> III 576.

<sup>33</sup> IV 3246.

<sup>34</sup> VI 6459.

<sup>35</sup> V 4016, Dazu L. Schmugge, *Kirche, Kinder, Karrieren*, Zürich 1995, S. 230-234.

<sup>36</sup> X 1.20.1-7, ed. Friedberg, Band II Sp. 144-146.

<sup>37</sup> Vgl. dazu Rehberg, S. 289f.

Suppliken aus dem deutschsprachigen Raum in Rom registriert worden<sup>38</sup>. Diese Dispenspraxis kann auch unter den folgenden Päpsten regelmäßig nachgewiesen werden<sup>39</sup>.

## 6. Weihe in Rom als Flucht vor der Ehe

Mit Hilfe einer vom Papst genehmigten Supplik konnte man in Rom sehr rasch<sup>40</sup>, das heißt auch *extra tempora a iure statuta* die höheren Weihen empfangen. Die höheren Weihen bildeten ein nicht dispensierbares Ehehindernis, umgekehrt konnte ein in gültiger Ehe lebender Mann nicht Priester werden. Sehr eingehend schilderte ein gewisser Stephan Seupler aus Mainz im Jahre 1490, warum er in aller Eile nach Rom geflohen war, um sich dort weihen zu lassen. Stephan hatte nämlich, zu jener Zeit noch nicht Kleriker, eine gewisse Elisabeth verführt und entjungfert. Elisabeth hatte Stephan danach vor dem Mainzer Officialatsgericht als ihren legitimen Ehemann eingefordert, da er ihr höchstwahrscheinlich die Ehe versprochen hatte, um in ihr Bett zu gelangen<sup>41</sup>. Fluchtartig machte sich Stephan auf nach Rom und ließ sich an der Kurie ganz regulär, wie er betonte, zum Priester weihen. Währenddessen ging das Verfahren in Mainz weiter und endete mit dem definitiven Urteil zugunsten Elisabeths, sie sei Stephans legitime Ehefrau. Kaum nach Mainz zurückgekehrt wurde Stephan auf Betreiben der Familie der Frau gefangen und dem Bischof übergeben, der ihn einkerkern ließ, ihm jede priesterliche Tätigkeit untersagte und ihn nur unter der Bedingung freilassen wollte, dass er die Kutte der Karmeliter anzüge. Zuvor hatten sich die beiden Familien darauf verständigt, dass Stephan der Elisabeth ein Kranzgeld, eine gewisse Summe Geldes zahlen sollte, die es ihr ermöglichen würde, in ein Kloster einzutreten und Nonne zu werden. Stephan wollte aber nicht in den strengen Bettelorden der Karmeliter eintreten. Der Bischof entließ ihn jedoch nicht aus dem Kerker ohne den Eid, Karmeliter zu werden. Nur unter dieser Kondition frei gekommen wandte er sich erneut nach Rom. Er habe, so argumentierte er, den Eid unter Zwang (*vi et metu*) abgelegt und supplizierte darum, von der Pönitentiarie davon entbunden zu werden und Säkularkleriker bleiben zu dürfen. Aus diesem Grund musste Stephan in Rom seine vorausgegangene Affäre mit Elisabeth erzählen.

Stephan hatte an der Kurie darum gebeten, sein Gesuch nicht wie üblich dem Mainzer Erzbischof zur Untersuchung zu kommittieren, sondern diesen für befangen erklärt. Das war nach dem ersten Urteil verständlich und sein gutes kanonisches Recht<sup>42</sup>. Daher sollte der Mainzer Domdekan seinen Fall

<sup>38</sup> Schmugge, Hersperger, Wiggerhauser, S. 143-147.

<sup>39</sup> RPG V 1204; VI 3058, 3063, 3195, 3343, 6511, 6534, 6544, 6555, 6566, 6582, 6589, 6599; VII 2260, 2265, 2266, 2305, 2317, 2320, 2356, 4130, 4143, 4144; VIII 2142.

<sup>40</sup> In drei Tagen, Rehberg, S. 280 und 292-293.

<sup>41</sup> «Elizabeth eum .... super pretenso cum eo contracto matrimonio in causam coram ordinario traxerat», RPG VII 2613. Dazu L. Schmugge, *Ehen vor Gericht*, Berlin 2008, S. 82.

<sup>42</sup> Zur Rechtsfigur des *iudex suspectus* vgl. L. Schmugge, *Kanonistik in der Pönitentiarie*, in M.

untersuchen. Aus den römischen Quellen ist nicht zu ersehen, ob der „Weihetourist“ Stephan Seupler aus Mainz Säkularkleriker bleiben durfte oder Karmeliter werden musste. Elizabeth wird wohl den Rest ihres Lebens im Kloster verbracht haben. Ähnliche Geschichten sind unter den römischen Suppliken gar nicht so selten zu finden<sup>43</sup>.

## 7. *Weihen Illegitimer*

Aus allen bisher genannten Gründen konnte es für Kleriker von Vorteil sein, nach Italien und speziell nach Rom zu wandern und sich dort weihen zu lassen<sup>44</sup>. Bei illegitimer Geburt war ein päpstlicher Dispens für die Übernahme eines Kuratbenefizes erforderlich. Daher kamen ultramontane Priestersöhne und andere Bastarden an die Kurie<sup>45</sup>. Sie wurden dort zuerst auf ihre Eignung geprüft, etwa durch den Regens der Pönitentiarie<sup>46</sup> oder einen anderen Kurienbischof<sup>47</sup>, worüber ihnen eine Bescheinigung ausgestellt wurde und sie die *ordines* empfangen durften. Selbst von päpstlichen Legaten dispensierten Bastarden blieb manchmal die Romreise nicht erspart. Der Bischof von Worms, Johann von Dalberg, wollte die vom Nuntius Raimund Peraudi ausgestellte Littera für Johannes Spengler, einen Wormser Kleriker, den Raimund vom *defectus natalium* dispensiert hatte, nicht anerkennen. Peraudi weilte im September 1501 zur Vorbereitung des Kreuzzuges gegen die Türken in Deutschland und nahm am Nürnberger Reichstag teil. Spengler holte sich nach der Weigerung seines Ordinarius, den Legatendispens zu bestätigen, einen päpstlichen Dispens in Rom, ließ sich an der Kurie *ad fictum titulum* zum Priester weihen und am 31. Oktober 1503 *de speciali et expressa concessione* vom Regens der Pönitentiarie Giuliano de Maffei absolvieren<sup>48</sup>.

## 8. *Weihen zu einem fictus titulus*

Die Pönentiarisuppliken berichten gelegentlich über Fälschung von Prüfungsdokumenten und *litterae dimissoriae*, über Erschleichung der Zulassung, über Weihe ohne Examen oder Weihe trotz eines gravierenden *defectus corporis*<sup>49</sup>. Ein Hindernis für Weihewillige ergab sich aus der Vorschrift, dass

Bertram (Hg.), *Stagnation oder Fortbildung? Aspekte des allgemeinen Kirchenrechts im 14. und 15. Jahrhundert*, Tübingen 2005 (Bibliothek des Deutschen Historischen Instituts in Rom, 108), S. 93-115, hier S. 105.

<sup>43</sup> Ein ähnlicher Fall im RPG VII 2241.

<sup>44</sup> Zu den Gründen für den römischen Weihetourismus auch Rehberg, S. 288.

<sup>45</sup> z.B. VIII 5267, 5412.

<sup>46</sup> Vgl. VI 5047 und B. Schwarz, *Regesten der in Niedersachsen und Bremen überlieferten Papsturkunden 1198-1503*, Hannover 1993, Nr. 2095/2096.

<sup>47</sup> Auftrag des Großpönitentiars an den Erzbischof von Patras Simon Vosich zur Prüfung eines Augsburger Akoluthen, der eine Supplik *de uberiori gratia* eingereicht hatte, Schwarz, Nr. 2098 und RPG VI 6238.

<sup>48</sup> ASV, PA 51 82r<sup>ss</sup>, 31. oct. 1503.

<sup>49</sup> Fälschung von Prüfungsdokumenten: V 933, VI 6632; falsche *litterae dimissoriales*: III 311, VI



nur bepfändete Kleriker die Weihe empfangen durften, deshalb gaben viele Nichtbepfändete einen fiktiven Titel (*titulus fictus*) an. Wer ohne eine *littera dimissoria* seines Heimatbischofs in der Tasche mit der Absicht über die Alpen nach Rom gewandert war, sich an der Kurie die Tonsur erteilen zu lassen bzw. die niederen und höheren Weihen zu empfangen, verstieß gegen die bereits genannte Konstitution Pius II. *Cum ex sacrorum*. Falls der Betreffende sich dann obendrein *ad fictum titulum* weihen ließ und darauf sogar einen Eid ablegte und Eideshelfer benannte, machte er sich des Meineides und des *crimen falsi* schuldig. Denn an der auf schriftlichen Geschäftsverkehr bestehenden päpstlichen Kurie hatten alle Kandidaten eine Supplik mit Angabe der von ihnen erbetenen *ordines* und ihres Titels einzureichen. Sie erhielten nach vollzogenem Zeremoniell eine Bescheinigung, in welcher die erhaltenen *ordines* und ihr Benefizialtitel aufgeführt wurden. Sobald diese Bescheinigung *in partibus* einem Kollator, der den in Rom Geweihten in ein Benefiz einweisen wollte, vorgelegt wurde, kam der Betrug ans Tageslicht.

Besaßen ultramontane Weihekandidaten keinen gültigen *titulus*, hatten sie mit ihrer Supplik den Heiligen Vater, der diese formell genehmigt hatte, belogen und waren zu Fälschern geworden. Da während der Weihezeremonien von den künftigen Klerikern Teile der Messfeier aktiv bestritten wurden (Lesung von Epistel bzw. Evangelium), beging ein solcher Betrüger auch noch *excessus*. Die Folge war die automatische Exkommunikation (*excommunicatio ipso facto*) sowie der Status der Inhabilität und Irregularität, welcher das Verbot der Ausübung jeder geistlichen Handlung nach sich zog und von einem Pfründenbesitz ausschloss. Hatte sich ein Kleriker unter derart regelwidrigen Umständen in Rom ordinieren lassen, musste er sich zu Zeiten Alexanders VI. vor der Absolution dem Regens der Pönitentiarie, Bischof Giuliano de Maffei von Bertinoro, vorstellen<sup>50</sup>. Selbst wenn der Petent unmittelbar danach, wie es meistens geschah, mittels einer *Littera* der Pönitentiarie absolviert und von den genannten Folgen dispensiert worden war, nutzte ihm das nichts, solange er seinem Heimatbischof die *Littera* nicht zur Exekution, das heißt zur Bestätigung von Absolution und Dispens, vorgelegt hatte, wie Johannes Spengler es korrekterweise getan hatte. Denn es galt generell «Papsturkunden wurden erst rechtsgültig nach Präsentation bei den zuständigen Stellen»<sup>51</sup>.

6516, 6529, 6583, 6632; Erschleichung der Zulassung: VI 6731, VII 2364; Weihe ohne Examen: VII 2364, VIII 2590; Weihe trotz eines gravierenden *defectus corporis*: VIII 2603. Zur Ernsthaftigkeit der Prüfungen an der Kurie Rehberg, S. 297f.

<sup>50</sup> Als Beispiel hier die Supplik des Konstanzer Klerikers Johannes Ruffi vom 2. September 1502 (VIII 5912): «Johannes Ruffi cler. Constant. dioc. exponit, quod alias se fecit vigore certe supplicationis de concessione s. v. signate, in qua licet non haberet quod sufficientem titulum habebat, cuius vigore ad omnes ordines promoveri artabatur fuit expressum vel quod super hoc in camera apostolica fidem facere teneretur additum fuit, quod postmodum in eadem camera proprio iuramento firmavit et aliquos testes, qui ita esse deponerent prout deposuerunt, adduxit, in R. cur. ad omnes ordines promoveri et in ipsis tantummodo suscipiendo ministravit: supplicat de absol. a periurii reatu et crimine falsi et de disp. Fiat de speciali Jul. ep. Brictonorien. regens; et committatur ep. Brictonorien. in R. cur. residenti attento, quod orator presens est in eadem, fiat Jul.».

<sup>51</sup> Schwarz, S. 499.

Diese Erfahrung hatte der Augsburger Priester Benedikt Schalhammer aus Geltendorf im Bistum Augsburg gemacht. Im Sommer 1492 war er an der römischen Kurie unter einem falschen Titel zum Priester geweiht worden, die *Libri formatarum* verzeichneten diesen Vorgang, ohne jedoch den falschen Titel zu erwähnen. Seine Supplik mit der Bitte um Absolution und Dispens datierte vom 29. August 1492 ohne weitere Angaben der Umstände<sup>52</sup>. Mit Datum vom 3. November 1492 tauchte sein Name erneut in den Pönitentiarieregistern auf Benedikt, inzwischen nach Geltendorf zurückgekehrt, hatte es versäumt, die Littera vom 29. August seinem Ordinarius wie vorgeschrieben vorzulegen, vielmehr geistliche Handlungen vorgenommen, die Messe gelesen, Beichte gehört und Tote bestattet. Irgendwer muss davon erfahren und, um Benedikt aus seiner Pfründe in Geltendorf zu verdrängen, ihn angeschwärzt haben. So musste er erneut in Rom um Absolution und Dispens bitten, um den Altardienst weiterhin ausüben zu können und seine Pfründe nicht zu verlieren<sup>53</sup>.

Selbst der ordnungsgemäße Empfang der Weihen an der Kurie durch einen vom Papst beauftragten Bischof konnte Ursache für ein weiteres Weihehindernis sein, wenn Bittsteller einen Teil der Weihen ausgelassen oder sich vor Erreichen des kanonischen Alters oder auch ohne spezielle Lizenz *extra tempora una et eodem die* hatten weihen lassen<sup>54</sup>. Friedrich Schott aus der Diözese Würzburg war aus diesen Gründen gezwungen, innerhalb von drei Jahren zwei Mal nach Rom zu pilgern. Vor dem 8. März 1493 hatte er aufgrund einer noch von Innozenz VIII. signierten Supplik unter einem falschen *titulus* in Rom die höheren Weihen empfangen und am gleichen Tag Absolution und Dispens erhalten. Da er vergessen hatte, sich auch die niederen Weihen geben zu lassen, war die Zeremonie unwirksam. So taucht sein Name am 30. Juni 1496 erneut in den Pönitentiarieregistern auf und er supplizierte darum, nun alle Weihen in Rom empfangen zu dürfen<sup>55</sup>.

### 9. Ein Wandel in der römischen Weihepraxis

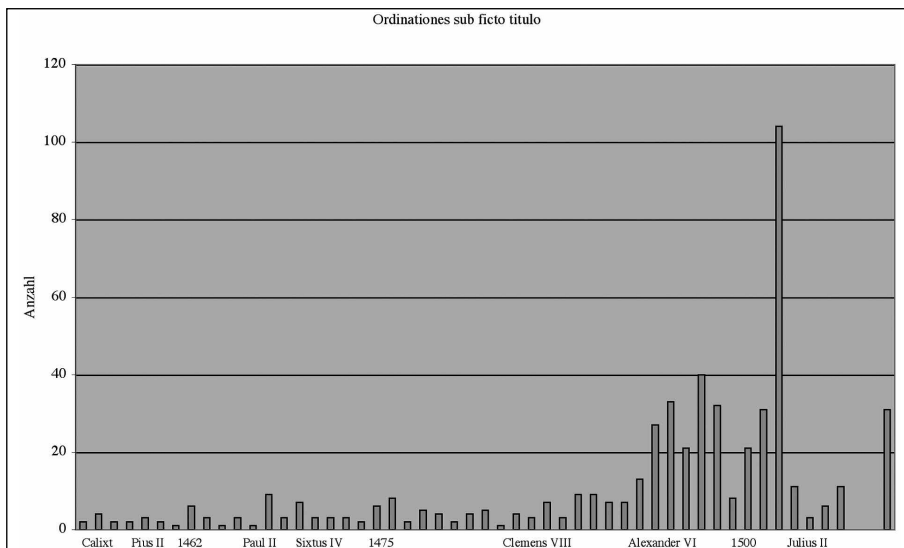
Aus den von deutschen Bittstellern in Rom eingereichten Suppliken geht hervor, dass bis 1490 Weihen zu einem *titulus fictus* an der Kurie selten vorkamen. Offenbar kontrollierte die Apostolische Kammer streng, dass fremde Weihekandidaten die kanonischen Voraussetzungen besaßen und ein Benefiz nachweisen konnten. Im Pontifikat Alexanders VI. (1491-1503) ist dann ein steiler Anstieg der Bittsteller, die sich unter Angabe eines *titulus fictus* an der Kurie hatten weihen lassen, zu konstatieren.

<sup>52</sup> ASV, *Camera Apostolica*, *Libri formatarum* vol.10 fol. 73v. Absolution: RPG VIII 5255.

<sup>53</sup> VIII 5266.

<sup>54</sup> VI 6456.

<sup>55</sup> VIII 5283 und 5527.



In den 36 Jahre zwischen 1455 und 1491 haben nur 151 Kleriker angegeben, in der römischen Kurie unter Angabe eines falschen Titels Weihen erhalten zu haben, im Durchschnitt pro Jahr 4 Personen. In dem knapp zehn Jahre währenden Pontifikat des zweiten Borgia-Papstes waren es 332 *sub ficto titulo* erteilte Weihen bei insgesamt 356 an der Kurie vorgenommenen Ordinationen deutscher Kleriker, allein im Heiligen Jahr 1500 deren 104. Dabei ist in Rechnung zu stellen, dass die reale Zahl weit höher gewesen sein muss, denn die Suppliken seines 2., 3. und 6. Pontifikatsjahres sind verloren.

Warum wurden Weihen mit einem falschen Benefizialtitel zugelassen? Wie lässt sich der Wechsel in der Dispenspraxis erklären? Können wir feststellen, ob die Technik, sich die Weihen auf diese Weise zu erschleichen und danach Absolution und Dispens einzuholen, auch von Petenten aus anderen Gebieten Europas angewendet wurde? Da dieses Phänomen im Heiligen Jahr 1500 besondere Ausmaße angenommen hat, lohnt es sich, die Häufigkeit der Absolution von Weihen mit einem falschen Titel wenigstens für dieses Jahr bei allen Diözesen zu erheben. Eine Auszählung in den Registerbänden der Pönitentiarie, die das Heilige Jahr 1500 abdecken<sup>56</sup>, hat folgendes Ergebnis erbracht.

Für Frankreich lassen sich 186 römische Weihen *sub ficto titulo* nachweisen, die anderen Regionen Europas fallen (ausgenommen das Deutsches Reich mit seinen 104 Suppliken) dagegen stark ab: Von der Iberische Halbinsel kamen vierzehn Supplikanten, zehn aus Italien, drei von den Britischen Inseln (alle aus London), aus Osteuropa zwei, kein einziger Supplikant kam aus Nordeuropa. Auch bei den von Rehberg untersuchten

<sup>56</sup> ASV, PA 48 und 49.

Weihen durch den *vicarius urbis* 1517 und 1521 ragten französische Kleriker mit 37% bzw. 43% heraus, während die Ordinanden aus dem Reich insgesamt 16% (1517) bzw. 14% (1521) ausmachten. Die Relation entspricht der des Jahres 1500.

Die Aufstellung zeigt also, dass einzig Petenten aus deutschen und französischen Diözesen in großer Zahl den Trick anwandten, sich mit einem fiktiven Benefiz die geistlichen Weihen in Rom zu erschleichen, um danach ihren durch Meineid und das *crimen falsi* korrumpierten Status als Kleriker durch päpstliche Absolution und Dispens wieder zu sanieren. Offenbar hat die Kurie die Weihe von Betrügern, die ein Benefiz zu besitzen vorgaben, unter Alexander VI. ausdrücklich nicht unterbunden oder unterbinden können. Es lässt sich nachweisen, dass die Apostolische Kammer bei den Klerikern, die sich auf die öffentlichen Anzeigen hin für die Weihe mit einer schriftlichen Supplik anmeldeten, gegen Ende der Borgia-Zeit auf der Nennung eines Titels und dessen Beeidigung bestand. Erstmals Ende 1502 wird von den Kandidaten verlangt, die Angabe des *titulus* durch einen Eid in der Kammer zu bekräftigen und Eideshelfer beizubringen<sup>57</sup>. Bis dahin hatten Petenten ohne gültigen Titel ungerührt, aber wohl von ihren Prokuratoren darin ermuntert, einen solchen Eid geschworen, reichten aber, manchmal bereits am Tag nach dem Empfang ihres *ordo*, spätestens aber dann, wenn sie die Littera ihrem Bischof vorlegen mussten und damit der falsche Titel offenbar geworden war, eine Supplik um Absolution vom Meineid (*periurii reatus*) und dem *crimen falsi* sowie um Dispens von der *inhabilitas* und *irregularitas* ein. Der Bitte um diese Gnade wurde vom Regens der Pönitentiarie auch ohne weiteres stattgegeben<sup>58</sup>. All das kann mindestens bis September 1502 nicht gegen den Willen, zumindest nicht ohne stillschweigende Duldung der Leitung der Pönitentiarie erfolgt sein, wobei die Prokuratoren diesen Betrug offenbar kräftig förderten. Selbst ein Familiar des Großpönitentiars beteiligte sich an diesem Spiel<sup>59</sup>. Wer waren die Prälaten, die damals an der Spitze dieses Dikasteriums standen und die Vergabe der Gnaden kontrollieren sollten?

## 10. Die Leitung der Pönitentiarie unter Alexander VI

Seit 1476 hatte Giuliano della Rovere die Leitung der Pönitentiarie inne, ein Nepot Sixtus' IV., der seinen Neffen nach dem Tode Filippo Calandrinis damit betraut hatte<sup>60</sup>. Unter Innozenz VIII. erhielt Kardinal Giuliano am 19.

<sup>57</sup> VIII 5912: «vigore certe supplicationis de concessione s. v. signate, in qua licet non haberet quod sufficientem titulum habebat, cuius vigore ad omnes ordines promoveri artabatur fuit expressum vel quod super hoc in camera apostolica fidem facere teneretur additum fuit, quod postmodum in eadem camera proprio iuramento firmavit et aliquos testes qui ita esse deponent prout deposuerunt adduxit», 2. September 1502.

<sup>58</sup> Vgl. die zitierte Supplik des Johannes Ruffi.

<sup>59</sup> Vgl. VIII 5423 und *Libri formatarum* 11 fol. 95r.

<sup>60</sup> Dazu F. Tamburini, *Per la storia dei Cardinali Penitenzieri Maggiori e dell'Archivio della Penitenzieria Apostolica*, in «Rivista di storia della Chiesa in Italia», 36 (1982), S. 332-380.

April 1479 das Bistum Sabina, am 31. Januar 1483 wurde er nach Ostia transferiert. Unter seinen Familiaren befanden sich viele Deutsche<sup>61</sup>. Am 1. November 1503 wurde Giuliano, der erbitterte Gegner Alexanders VI., zum Papst gewählt und nahm den Namen Julius II. an<sup>62</sup>. Die Aufgaben der Pönitentiarie waren ihm also aus eigener Erfahrung bestens vertraut. Aber während man seinen Namen unter Sixtus IV. noch über 1000-mal als Signatar in den Pönitentiareregistern findet, trat er unter Innozenz VIII. nicht mehr bei der Signatur der Suppliken in Erscheinung. Auch unter Alexander VI. kümmerte sich Giuliano wenig um sein Hauptamt. Unter den deutschen Bittschriften gibt es nicht eine einzige mit seiner Signatur. Seit dem Tode Sixtus IV. hatte er die Leitung der Pönitentiarie ganz in die Hände des Regens Giuliano de Maffeis gelegt<sup>63</sup>.

Kein Regens der Pönitentiarie war in der zweiten Hälfte des 15. Jahrhunderts derart lange in diesem Amt aktiv (nämlich 25 Jahre) und so häufig als Signatar und Kommissionsempfänger in den Suppliken zu finden wie Giuliano de Maffeis. Der Franziskanerkonventuale aus Volterra verdankte seine Kurienkarriere dem Ordensbruder Giuliano della Rovere. De Maffeis führte seit dem 24. Januar 1477 nominell das Bistum Bertinoro, residierte jedoch immer an der Kurie. Unter Innozenz VIII. stand sein Name unter 3770 von 4733 deutschen Suppliken. Seine Position wurde unter Alexander VI. noch dominanter, denn Giuliano signierte (bis auf 12) alle der insgesamt 6648 deutschen Bittschriften. Außerdem überwies er (*committatur*) zahlreiche Fälle an der Kurie persönlich anwesender Petenten an sich selbst. Angesichts der von Cesare Cenci nachgewiesenen kurialen Aktivitäten Giulianos ist ausgeschlossen, dass er sich um alle Bittsteller persönlich hat kümmern können. Diese sind vielmehr an sein Büro verwiesen worden. Eine solche Praxis ist in den Jahrzehnten zuvor in der Pönitentiarie nicht üblich gewesen. Petenten hatten sich manchmal anderen Kurienbischöfen, nicht aber dem Regens vorzustellen. Eine Kommission an der Kurie bedeutete für den Bittsteller einen zusätzlichen Kostenaufwand, für die Bediensteten der Pönitentiarie entsprechende Mehreinnahmen. Haben die Amtsträger der Pönitentiarie über den Betrug hinweggesehen, weil die Praxis der Weihe *ad fictum titulum* allen, die mit dem Geschäftsgang einer Supplik befasst waren, vom Regens bis zum Schreiber, zusätzliche Einkünfte verschaffte?

Alexander VI. starb am 18. August 1503, Francesco Todeschini Piccolomini (Pius III.) wurde am 22. September gewählt, verschied aber bereits kurz nach seiner Krönung am 18. Oktober. Bis zur Krönung Julius' II. am 26. November 1503 signierte de Maffeis weiterhin als Regens, allerdings

<sup>61</sup> Ihre Namen gehen aus den Suppliken hervor, in denen sie sich auf den Status eines Familiaren des Großpönentiaris berufen, vgl. RPG VII und VIII *sub indice*. Zu den Deutschen in Rom in der ersten Hälfte des 15. Jahrhunderts C. Schuchard, *Die Deutschen an der päpstlichen Kurie im späten Mittelalter (1378-1447)*, Tübingen 1987 (Bibliothek des Deutschen Historischen Instituts in Rom, 65).

<sup>62</sup> C. Eubel, *Hierarchia catholica medii aevi...*, Monasterii 1913-1923, II, S. 16 und 64.

<sup>63</sup> Vgl. den Index der Signature im RPG VII und VIII.

mit der ungewöhnlichen Formel *de speciali concessione*, die wohl auf die Sedisvakanz deutet. Die letzte derartige Signatur bei deutschen Bittstellern trägt das Datum 25. November 1503. Mit dem Pontifikatswechsel zum Rovere-Papst dürfte de Maffeis, der 1503 schon über 70 Jahre alt war, seine Funktionen an der Kurie aufgegeben haben, er starb 1510. Oder hatte ihn der neue Papst abgesetzt? Erstmals am 30. März 1504 unterzeichnete der Bischof Antonius Ursus Venetus von Canea auf Kreta (1481-1511) deutsche Suppliken<sup>64</sup>. Für den Zeitraum von Dezember 1503 bis zu diesem Datum sind die Register der Pönitentiare nicht mehr vorhanden<sup>65</sup>.

Eine ähnlich beherrschende Position wie der Regens de Maffeis nahm im Pontifikat Alexanders VI. Franciscus Berthelay unter den Minderpönitentiaren ein. Als solcher an der römischen Kurie mindestens seit August 1484 nachweisbar nahm er am Konklave von 1484 teil<sup>66</sup>. Der Kanoniker von Embrun führte den Titel eines *decretorum doctor* und bekleidete nach Eubels *Hierarchia catholica* seit 1499 nominell das Amt eines Bischofs von Mylopotamos auf Kreta, residierete jedoch permanent an der römischen Kurie, wo er noch unter Leo X. aktiv war. Nach dem Ausweis der Pönitentiariesuppliken firmierte bereits am 26. April 1496, also drei Jahre vor dem von Eubel mitgeteilten Beginn des Pontifikats Berthelays, ein *episcopus Milopotamensis* als Minderpönitentiarius. Berthelays Vorgänger in Kreta, Georg, ist jedoch in diesem Amt nicht belegt<sup>67</sup>. Kein anderer Minderpönitentiarius weist eine ähnlich hohe Anzahl von Kommissionen auf wie Berthelay, ihm wurden im Pontifikat Alexanders VI. 198 Suppliken überwiesen (*committatur*). Fast alle in Rom anwesenden Bittsteller mussten sich im Heiligen Jahr 1500 ihm vorstellen. Weder der langjährige Regens de Maffeis noch der so überaus aktive Minderpönitentiarius Berthelay können von den Weißen unter einem falschen Titel nichts gewusst haben. Sie haben wahrscheinlich mit den Prokuratoren, Schreibern, Minderpönitentiaren und Kommissionären an den Petenten nicht schlecht verdient. Die Taxliste des Cornelius Ruyff, wohl zwischen 1508 und 1513 zu datieren, nennt als Gebühr für die Absolution eines Petenten, der sich zu einem falschen Titel hatte weihen lassen und diesen beeidigt oder Zeugen dafür beigebracht hatte, die Summe von dreieinhalb Dukaten<sup>68</sup>. Die Handsalben für die beteiligten Kurialen dürften diesen Betrag noch vermehrt haben.

<sup>64</sup> Eubel, *Hierarchia catholica*, II, S. 98 und III S. 82.

<sup>65</sup> Eubel, *Hierarchia catholica*, II, S. 110; RPG VI, S. XXVI; M. Ceresa in *Dizionario biografico degli italiani*, 67, Roma 2006, S. 235-237. Neben den Indizes der RPG-Bände VI bis VIII vgl. zu den Aktivitäten des Franziskaners Giuliano de Maffeis auch *Bullarium Franciscanum. Nova series*, IV, ed. C. Cenci, Grottaferrata 1990, *sub indice* Iulianus de Vulterris, Band 2 S. 1099; ferner das *Supplementum ad Bullarium Franciscanum*, Band 2, ed. C. Cenci, Grottaferrata 2003, *sub indice* S. 1419.

<sup>66</sup> VII Nr. 1771 und S. XXIV; Johannis Burchardi *Liber notarum ab anno MCCCCLXXXIII usque ad annum MDVI*, hrsg. von E. Celani, Città di Castello 1910 (*Rerum Italicarum Scriptores*, 32, 1), S. 27 mit Anm. 3.

<sup>67</sup> RPG, VIII 5509.

<sup>68</sup> «Absolutio pro eo qui ad fictum titulum se fecit promoveri et iuravit de titulo sufficienti aut induxerit testes ita deponentes ducati 3 cum dimidio», Müller, S. 256 Zeile 239-241.

Doch wie erklärt sich die hohe Zahl der *sub ficto titulo* Geweihten aus Frankreich und den Gebieten des Deutschen Reiches? Allgemein konstatiert man für das Spätmittelalter einen Klerikerüberschuss, eine «hohe Arbeitslosenquote», ja sogar die Existenz eines «Klerikerproletariats»<sup>69</sup>. In die Konkurrenz um ein kirchliches Benefiz traten immer mehr zum Teil studierte Männer, und wer bereits geweiht war, konnte schneller zum Ziel einer Pfründe gelangen als ein noch nicht ordinierter Scholar ohne Tonsur. Im Besitz der Priesterweihe konnte sich der Geistliche um die Vertretung eines *rector parochialis ecclesie* bemühen und als Mietling die Seelsorge ausüben<sup>70</sup> bzw. als sogenannter Frühmessner eine der besonders in den Städten sehr zahlreichen, meist von Bürgern gestifteten einträglichen Altarpfründe erhalten. Für einen solchen Altardienst *sine cura* wurden im Kölner Raum etwa 25 Gulden pro Jahr bezahlt<sup>71</sup>.

Aus welchen Bistümern kamen die auf ein fiktives Benefiz promovierten deutschen Bittsteller, die sich in Rom hatten weihen lassen? Die Rangfolge ihrer Heimatdiözesen zeigt Augsburg mit weitem Abstand an der Spitze: Augsburg 102, Würzburg 39, Konstanz 28, Speyer 26, Mainz 19, Eichstätt 13, Worms 12, Freising 11, Passau 9, Regensburg 9, Utrecht 6, Straßburg 6, Bamberg 5, Salzburg 5, Brixen 3, Köln 3, Meißen 3, Basel 2, Chur 2, Lüttich 2.

307 der insgesamt 332 Bittsteller kamen also aus Diözesen im Westen und Süden des Reiches, in denen viele Benefizien, darunter besonders zahlreiche Altarstiftungen in den Städten, zur Verfügung standen und wo die Konkurrenz um Pfründen sowohl geistlicher wie weltlicher Kollatoren besonders heftig war. Ähnliches dürfte auch für die hohe Zahl der französischen Supplikanten gelten. Andreas Rehberg konnte anhand der nach den Reformen Leos X. in Rom durch den päpstlichen Vikar vorgenommenen Weihen 1517 und 1521 eine fast identische geographische Herkunft der deutschen Ordinanden nachweisen<sup>72</sup>.

## 11. *Julius II. gegen Weihen sub ficto titulo*

Die Weihe zu einem *titulus fictus* wurde gegen Ende des Pontifikats Alexanders VI. durch die Kammer erschwert, indem offenbar auf Drängen des päpstlichen Finanzamtes in die Supplik ein Vermerk über die Beeidigung des *titulus* eingefügt worden ist. Diesen Umstand brachte Michael Woyt, ein Priester aus der Diözese Lüttich, in seiner Supplik vom 30. Oktober 1504 rück-

<sup>69</sup> So B.-U. Hergemöller, Artikel *Klerus, Kleriker*, in *LexiKon des Mittelalters*, 5, München und Zürich 1991, Sp. 1210. Vgl. ferner D. Kurze, *Der niedere Klerus in der sozialen Welt des späteren Mittelalters*, in *Beiträge zur Wirtschafts- und Sozialgeschichte des Mittelalters. Festschrift für Herbert Helbig zum 65. Geburtstag*, hrsg. von K. Schulz, Köln 1976, S. 273-305, wieder abgedruckt in D. Kurze, *Klerus, Ketzer, Kriege und Prophetien. Gesammelte Aufsätze*, hrsg. von J. Sarnowsky, M.-L. Heckmann, S. Jenks, Warendorf 1996; Janssen, S. 50; Rehberg, S. 295.

<sup>70</sup> Dazu Janssen, S. 53.

<sup>71</sup> Janssen, Band 1, S. 391f.

<sup>72</sup> Rehberg, S. 286f und 295-296.

kblickend zum Ausdruck<sup>73</sup>. Bei diesem Betrug spielten die Prokuratoren oder Sollizitatoren, deren sich die Gesuchsteller in Rom bedienen mussten, um eine dem *stilus curiae* entsprechende Bittschrift einzureichen, eine sehr undurchsichtige Rolle. Ein Würzburger Priester Melchior berichtete von seinen einschlägigen Erfahrungen wie folgt<sup>74</sup>: In seiner noch vom Borgia-Papst signierten Supplik um Zulassung zu den *ordines* hatte der Prokurator eine Kaplanei im Bistum Bamberg als *titulus* eintragen lassen, die Melchior gar nicht besaß<sup>75</sup>. Durch Eid und Zeugen hatte er den Besitz dieses Titels in der Apostolischen Kammer beschworen. Nach seinen eigenen Bekundungen hat Melchior die Supplik jedoch nie zu Gesicht bekommen («orator numquam supplicationem a manibus prefati sollicitatoris extrahere seu eam videre potuit»). Er besaß keine Bamberger Kaplanei, sondern einen *titulus iuxta morem patrie*, wie er sagte, nämlich einen *titulus patrimonii* im Bistum Würzburg.

Melchior kehrte als in Rom geweihter Priester nach Würzburg zurück, wo seine Ordination wegen des falschen Bamberger Titels für unwirksam erklärt und er in sein Benefiz deshalb wahrscheinlich nicht eingewiesen wurde. Es blieb ihm nicht anderes übrig, als erneut in Rom vorstellig zu werden. Die Supplik, in welcher er seine Geschichte erzählt, datiert vom 20. Oktober 1511. Diesmal erhielt er Absolution vom Meineid und dem *crimen falsi* in der Kanzlei und bezeichnenderweise mit der Signatur Papst Julius' II. selbst. Aus dieser Supplik geht klar hervor, dass Melchior durch die Praktiken des

<sup>73</sup> «Michael Woyt presb. Leod. dioc. olim se fecit in R. cur. vigore cuiusdam supplicationis per Alexandrum VI. signate ad quendam fictum titulum ad omnes ordines promoveri; arbitrabatur ut in camera apostolica fidem facere deberet et appositum fuit, quod postmodum in eadem camera titulum proprio iuramento firmavit et testes induxit, et deinde in ipsis ordinibus pluries ministravit: supplicatur pro parte de absol. a reatu periurii et crimine falsi et de disp., ut in suis sic susceptis ordinibus et in altaris ministerio ministrare valeat. Fiat de speciali A. ep. Agien. regens; et committatur ep. Milopotamen. in R. cur. residenti, fiat A. Rome apud s. Petrum», 30. oct. 1504 (ASV, PA 52 fol. 847rs).

<sup>74</sup> «Melchior Vikeder presb. Herbip. dioc. Exponitur pro parte oratoris, quod ipse alias se fecit vigore certe supplicationis de concessione pape signate, in qua per sollicitatorem illius quod quandam capellaniam Bamberg. dioc. obtinebat licet non obtineret expressum fuit et quod super hoc in camera apostolica fidem facere deberet appositum fuit, quod postmodum proprio iuramento firmavit et aliquos testes, qui ita deponerent prout deposuerunt, induxit, in R. cur. ad omnes ordines promoveri et in ipsis illos tantummodo suscipiendo ministravit; cum autem orator numquam supplicationem a manibus prefati sollicitatoris extrahere seu eam videre potuit et sufficientem iuxta morem patrie titulum tunc habebat, premissa tamquam simplex commiserit nec ut dictos testes nisi ut de titulo patrimonii deponerent induxit et predicta commisisse plurimum doluerit prout dolet de presenti: supplicatur pro parte oratoris de absol. a sent. et censuris, si quas propter premissa incurrit, periurii reatu ac crimine falsi et excessibus, et de disp., quod in suis ordinibus et in altaris ministerio ministrare valeat n.o. quibuscumque cum clausulis opportunis et consuetis [supra procurator Gerbillon taxa 13]. Fiat ut petitur J[ulianus papa]; et cum absol. a censuris quoad effectum, et quod littere per breve aut per officium sacre penitentie expediantur, attento quod orator est presens in R. cur.; et committatur Francisco ep. Milopotamen minori penitentiario pape, et eo [oratore] ad annum suspenso, fiat J[ulianus papa]. Rome apud s. Petrum» 20. oct. 1511 (ASV, PA 56 800vs).

<sup>75</sup> [Supplicatio], «in qua per sollicitatorem illius, quod quandam capellaniam Bamberg. dioc. obtinebat licet non obtineret, expressum fuit».



Sollizitators hereingelegt worden war. Die Prokuratoren verdienten an diesem Verfahren der Weihe *sub titulo ficto* doppelt, einmal durch die Bittschrift um Weihe und dann dadurch, dass die fehlbaren Kleriker um Absolution und Dispens nachsuchen mussten. Die Supplik vom 20. Oktober, die der Prokurator Gerbillon aufgesetzt hatte, kostete Melchior 13 Dukaten. Nach der genannten Taxliste vom Anfang des 16. Jahrhunderts, die aber die Situation unter Alexander VI. noch spiegelt, hätten die Gebühren für eine derartige Absolution aber nur 3 1/2 Dukaten betragen dürfen<sup>76</sup>.

Die Absolution *sub titulo ficto* in Rom geweihter deutscher Kleriker im Pontifikat Julius II. war stark rückläufig. 1507 sind mit 31 Absolutionen nach einer Weihe unter falschem Titel anscheinend wieder etwa so viele Fälle registriert wie unter Alexander VI. vor dem Heiligen Jahr, aber alle liegen weit zurück und dürften noch aus der Zeit des Vorgängers datieren, wie die Angabe *olim* bzw. die Signierung der Supplik beweisen. Papst Julius II. bemühte sich nach seiner Weihe, die betrügerischen Ordinationen abzustellen, zumindest aber zu erschweren. Das geht aus einer Notiz des Verfassers der oben genannten Taxliste, Cornelius Ruyff, hervor, in der es heißt: «Nota quod nunc papa Julius prohibuit officio penitentie et regenti, ne cuilibet vellent dare absolutionem [de ficto titulo] quoniam vult, ut puniantur ac remaneant perpetui suspensi, et si velint habere [absolutionem] oportet, quod nunc componant cum datario summi pontificis»<sup>77</sup>. Lässt sich etwas über die Wirkung der Maßnahmen des Rovere-Papstes aussagen? Nach der Durchsicht der Materie *De promotis et promovendis* in den Supplikenregistern der Pönitentiarie aus den Jahren 1503 bis 1513 ist in der Tat festzustellen, daß keine Absolutionen nach einer Weihe *sub ficto titulo* durch die Pönitentiarie mehr zu finden sind. Nun musste für derartige Fälle die Kanzlei bemüht werden.

Wann die von Papst Julius II. erlassene Konstitution datiert, die es der Pönitentiarie untersagte, Kleriker, die sich in Rom unter einem *titulus fictus* hatten weihen lassen, zu absolvieren und zu dispensieren, ist nicht festzustellen<sup>78</sup>. Bis Ende 1508 werden einige wenige Absolutionen und Dispense nach einer Weihe mit falschem Benefizialtitel noch durch den Regens erteilt, nämlich 11 für deutsche Petenten. Julius II. dürfte das Verbot also zwischen Ende 1508 und vor Mitte 1510 erlassen haben<sup>79</sup>. Die erste in der Kanzlei behandelte Supplik in dieser Sache stammte von einem Johannes Kysener aus Ildorf im Bistum Augsburg und datiert vom 5. Juli 1510<sup>80</sup>. Aus der Supplik

<sup>76</sup> *Taxe sacre penitentie correcte et emendate per Cornelium Ruyff iuris utriusque doctorem*, ed. W. Müller, *Die Gebühren der päpstlichen Pönitentiarie (1338-1569)*, in «Quellen und Forschungen aus Italienischen Archiven und Bibliotheken», 78 (1998) S. 189-261, Text S. 249-261, hier S. 256 Zeile 239-242.

<sup>77</sup> Müller, S. 256 Zeile 243-246, ebendort auch S. 203 und zur Inkunabelfassung S. 208.

<sup>78</sup> Im *Bullarium Romanum* Band V ist sie nicht zu finden.

<sup>79</sup> Die letzte Dispens nach einer Weihe mit *fictus titulus* für deutsche Petenten wurden für *Leonardus Tobler presb. Frising. dioc.* am 31. Oktober 1508 (ASV, PA 54 fol. 756v) registriert.

<sup>80</sup> ASV, PA 55 fol. 740v.

zweier *sub ficto titulo* an der Kurie geweihter Priester aus der Diözese Châlons und Trois vom 9. Januar 1512 geht klar hervor, dass dieses Verbot damals auch in Frankreich bekannt war, denn die beiden baten um Absolution und Dispens «non obstante inhibitione [Julii] promulgata»<sup>81</sup>. Ihre Supplik wurde in der Kanzlei vom Papst selbst signiert (*Fiat ut petitur J.*) und durch die Pönitentiarie als Breve expediert («sub anulo piscatoris attentata materia et paupertate oratorum, qui presentes sunt in curia»). Über der registrierten Supplik steht der Name des ersten Kanzleireferendars (*referendarius domesticus*) Johannes Gozadinus<sup>82</sup>. In der unmittelbar auf die Supplik der beiden Franzosen folgenden Bittschrift gibt der Petent an, ohne Titel und mit einem Meineid an der Kurie geweiht worden zu sein, aber «ante certam inhibitionem per sanctitatem vestram contra sic promotos et promovendos promulgatam»<sup>83</sup>. Deshalb wird in seinem Fall Absolution durch den Regens der Pönitentiarie erteilt. Dass die Pönitentiarie nach der päpstlichen *inhibitio* für diese Fälle nicht mehr zuständig war, geht aus mehreren in den Pönentiarierregistern verzeichneten, aber in der Kanzlei behandelten Suppliken hervor, die nach Juli 1510 datieren<sup>84</sup>.

Der Großpönitentiar wurde dennoch nicht ganz ausgeschaltet, man scheint in der Pönitentiarie einen Weg zur Umgehung des päpstlichen Verbots gefunden zu haben. Am Rand findet sich nämlich der Vermerk<sup>85</sup>: «Nota quod littere fuerunt expedite sub tenore presentis supplicationis vigore signature papalis in superiori supplicatione folio 24 registrate», was sich auf die erste Supplik bezieht, welche mit «concessum ut petitur in presentia domini nostri pape» durch den Kardinal Leonardus Grossus de Rovere<sup>86</sup> signiert war, den Julius am 4. Oktober 1511 zum Großpönitentiar bestellt hatte<sup>87</sup>. Ob die folgenden Suppliken dieser ersten päpstlichen Genehmigung untergeschoben wurden, dürfte zu prüfen sein, denn es heißt weiter «Et quod similes materie per dictum officium [id est paenitentiarie] expediri sunt solite que perinde valeant et vim et effectum habeant ac si supplicatio manu propria pape signata fuisset». In der Supplik eines Priesters aus der Diözese Chartres vom 8. März 1512, die ebenfalls in der Kanzlei durch Kardinal Leonardus mit «concessum ut petitur in presentia domini pape» signiert worden ist, findet sich der Satz, der Petent habe sich «post et contra certam inhibitionem per eundem sanctitatem vestram contra sic promotos et promovendos generaliter promulgatam» zu einem falschen Titel weihen lassen<sup>88</sup>. Der Großpönitentiar signierte also in der Kanzlei mit der Fiktion *in presentia pape* und umging so das Verbot Julius II., das seinem Dikasterium die Absolution solcher Fälle untersagt hatte!

<sup>81</sup> ASV, PA 57 fol. 851r-v.

<sup>82</sup> B. Katterbach, *Referendarii utriusque signature*, Roma 1931 (Studi e Testi, 55), S. 67.

<sup>83</sup> ASV, PA 57 fol. 851v.

<sup>84</sup> Vgl. ASV, PA 57 fol. 861v bis fol. 867r vom 19 Februar 1512.

<sup>85</sup> ASV, PA 57 fol. 861vs.

<sup>86</sup> «Leonardus Grossus de Ruvere»: Eubel, *Hierarchia catholica*, III S. 10.

<sup>87</sup> Tamburini, S. 332-380, hier S. 345.

<sup>88</sup> ASV, PA 57 fol. 869vs.

Die *Narratio* der Supplik eines Würzburger Subdiakons namens Balthasar Ruckenlaub vom 10. Dezember 1511 bestätigt nochmals die unter Alexander VI. an der Pönitientarie übliche betrügerische Praxis, aber auch das energische Vorgehen Papst Julius' II.<sup>89</sup>. Balthasar sei einst (*olim*), so liest man in seiner Supplik, an die Kurie gekommen und habe einen Prokurator, aufgesucht. Deren *botteghe* lagen, wie wir wissen, im Umkreis von Sankt Peter. Der junge Mann aus Würzburg sagte ihm, er besitze zwar kein Benefiz, aber einen Patrimonialtitel, der zu Hause für die Weihe ausreiche. Der Prokurator stellte zuerst einmal eine Rechnung («*sollicitator recepta prius ab eodem exponente certa pecuniarum summa pro eius salario et expensis*»), leider nannte Balthasar den Betrag nicht. Dann setzte er einen Text auf, in welchem von einer Pfarrkirche als Titel die Rede war, ohne dass Balthasar davon erfuhr. Dem Notar, der die Zulassung der Weihelikandidaten in der Kirche beaufsichtigte, teilte der Prokurator mit, er werde das Mandat der Kammer über das Benefiz (also den Eid des Bittstellers nebst der Bestätigung durch Zeugen) nach dem *pranzo* vorbeibringen. So kam Balthasar, obendrein noch ohne Examen und minderjährig, zum Subdiakonat. Der Prokurator ward nicht mehr gesehen. Obwohl Balthasar die Supplik und das falsche Mandat nie zu Gesicht bekommen haben will, fürchtete er zu Recht, dadurch Kirchenstrafen auf sich gezogen zu haben. In einer neuen Bittschrift suchte er um Absolution und Dispens nach sowie um die Lizenz, Diakons- und Priesterweihe außerhalb der Kurie und vorzeitig erwerben zu können, verklagte aber auch den flüchtigen Prokurator der ersten Supplik in Rom («*exponens se sic deceptum esse videns sollicitatorem querere fecit*»). Seine zweite, vom Prokurator Valleoleti aufgesetzte, in der Pönitientarie registrierte Supplik wurde vom Papst selbst in der Kanzlei mit *fiat ut petitur* genehmigt und mit den nötigen Formeln versehen. Der Fall wurde dem Minderpönitentiar Franciscus Berthelay überwiesen. Die (geringe) Gebühr von sieben Kammergulden verdankt Balthasar seiner Armut. Der Papst hatte angeordnet, die Littera sei durch die Pönitientarie («*attenta materia et oratoris paupertate*») zu expedieren, und zur Strafe wurde Balthasar für ein Jahr von allen geistlichen Handlungen suspendiert («*et eo suspenso ad annum*»).

Aus dem detailliert geschilderten Vorgang geht klar hervor, dass nicht nur der erste Prokurator, sondern ebenso der Kammernotar an dem bösen Spiel auf Kosten des Petenten beteiligt waren. Immerhin hatte Julius II., der sich als Großpönitentiar um sein Dikasterium nicht besonders intensiv gekümmert hatte, nach 1508 den Versuch gemacht, diesen Machenschaften ein Ende zu setzen. Die ab 1509 registrierten Suppliken beweisen, dass dieses Verbot eingehalten wurde. Alle Absolutionen und Dispense dieser Art für deutsche und französische Petenten wurden in der Kanzlei behandelt, aber vom Großpönitentiar mit der Formel *in presentia domini nostri pape* signiert. Die Anwesenheit des Heiligen Vaters ist allerdings seit Innozenz VIII.

<sup>89</sup> ASV, PA 57 fol. 891vss.

nur noch eine Fiktion<sup>90</sup>. Von einer Komposition, die der Notar Cornelius Ruyff erwähnt, ist in den registrierten Texten keine Rede, im Gegenteil: Die Litterae wurden als Breve oder durch die Pönitentiarie exekutiert, um den Petenten Kosten zu sparen. Die betroffenen Kleriker wurden allerdings für ein Jahr bzw. für sechs Monate von der Ausübung priesterlicher Amtshandlungen suspendiert. Diese Strafe war unter Alexander VI. nicht verhängt worden. Der römische Weihetourismus hatte seinen unter Alexander erreichten beträchtlichen Umfang wenigstens in dieser Hinsicht etwas eingebüßt.

<sup>90</sup> Dazu T. Frenz, *Die Kanzlei der Päpste der Hochrenaissance (1471-1527)*, Tübingen 1986 (Bibliothek des Deutschen Historischen Instituts in Rom, 63), S. 95f.

# ***The financing of Roman city politics, 1050-1150\****

by Chris Wickham

It was common knowledge in medieval western Europe that the papal court, which was crystallising as the Curia in the period of this article, was corrupt, and so was Rome in general. The papal judicial system, expanding rapidly from the 1130s, had a particularly bad name. John of Salisbury in the *Policraticus*, written in the 1160s, can speak for very many: in the Roman church, «iustitiam non tam veritati, quam pretio reddunt»<sup>1</sup>. And already around 1100, before that expansion, an unknown (plausibly Spanish) author penned a particularly goliardic satire, *De Albino et Rufino* or the *Tractatus Garsiae*, about the translation of Sts Silver and Gold by Pope Urban II in 1098-1099. Urban, «avidissimus pontifex», translated them to the shrine of St Cupidity, near that of her sister Avidissima and the church of her mother Avarice. «These are the two martyrs, who bravely defeated kings, emperors, dukes, tetrarchs, princes and other powers of the world ... these are the precious martyrs, through whom the Roman pope defeated Guiberto [*Clement III, the rival pope*], vanquished Henry [IV], curbed the senate, took over the state (*republicam*),... bravely attacked the house of Crescenzo [*Castel Sant'Angelo*], powerfully laid open the Tarpeian seat, climbed the Capitol, opened the treasury of St Peter...» And in honour of this, the pope and his fat cardinals ate and drank uncontrollably, in a Terence-influenced parody of the last supper. In the middle of the Investiture Dispute, a period of papal history which otherwise seems notably humourless, a writer could poke fun at the way Urban had indeed, as we shall see, quite probably taken over Rome in 1097-1098<sup>2</sup>.

\*I am grateful to Sandro Carocci for a critique of this text and to Giuliano Milani for a useful discussion. In this text, I put names of Italians into modern Italian, except for popes, and Hildebrand before he became Gregory VII, who is less recognisable in English as Ildebrando.

<sup>1</sup> John of Salisbury, *Policraticus*, ed. C.C.I. Webb, 2 vols., Oxford 1909, VI. 24 (II, p. 68).

<sup>2</sup> *Tractatus Garsiae*, ed. R.M. Thomson, Leiden 1973, quotes from pp. 20, 22, cf. 28. A. Becker, *Papst Urban II. (1088-1099)*, Stuttgart 1964-1988, cites this text but does not analyse it. Note that the “papal reform” movement (cf. below, note 38) seems to have had one clear effect: Urban and his cardinals were satirised for gluttony, not sex, unlike in tenth-century sources such as Liutprand of Cremona: *Antapodosis*, in *Liudprandi Opera*, ed. J. Becker, *Monumenta Germaniae historica* [henceforth *MGH*], *Scriptores rerum germanicarum* [henceforth *SRG*] (Hannover, 1915), pp. 1-158, e.g. II. 48.

I begin with these well-known texts simply to remind the reader how generalised was this sort of critique; indeed, not only was it “common knowledge” to medieval writers but it is also to modern historians, from Gregorovius to the present. And, although material of this kind mostly came from writers who lived a long way from Italy, we would be mistaken to see it as exclusively consisting of uncomprehending and inaccurate stereotypes; from the 1120s alone, the enthusiastic recounting in the *Historia Compostellana* of Diego Gelmírez’s *benedictiones* in gold and silver to the courts of Calixtus II, Honorius II and later Innocent II, or Caffaro di Caschifellone’s detailed account to the commune of Genoa of what he spent in 1120 to persuade Calixtus to take archiepiscopal powers over Corsica away from the church of Pisa, are precise instances of the practice of gift-giving on a large scale to members of the Curia and its beneficial results<sup>3</sup>. The Roman church needed, or thought it needed, as much money or precious metals from as many people as possible, and was fairly relaxed about the means it used to get it<sup>4</sup>. This amassing of money inside the church is relevant to my argument, and I shall return to it later. But the purpose of this article is not to discuss the rights and wrongs of papal “corruption”; rather, it is to analyse how money worked in the framework of Roman urban politics. Outside critics did not greatly distinguish between the Roman church and the city of Rome, but they were by no means the same – and certainly not in the first, uneasy, century of the international papacy, a period in which no pope until 1130 and few cardinals were of Roman origin. The Romans took money too; but they took it for different purposes, above all in return for political support inside the city. It is this which tells us most about the financing of the Roman political system in the decades either side of 1100. Giorgio Chittolini has always been interested in the internal structuring of states, and I hope that this case study from an earlier period will contribute to the development of the themes he pioneered.

<sup>3</sup> *Historia Compostellana*, ed. E. Falque Rey, Turnhout 1988, II. 4, 10, 16, 20, etc.; *Annali genovesi di Caffaro e de’ suoi continuatori*, 1, ed. L.T. Belgrano, Roma 1890, pp. 20-21n. (pp. 18-22 for context). For a recent discussion, see J. Laudage, *Rom und das Papsttum im frühen 12. Jahrhundert*, in *Europa an der Wende vom 11. zum 12. Jahrhundert*, ed. K. Herbers, Stuttgart 2002, pp. 23-53, the best analytical account of the period from Paschal II to Calixtus II, with a large bibliography of previous work; for the gifts, pp. 49-52 (p. 50: «Korruption ist hier wohl das richtige Stichwort»); for the most recent narrative account, see M. Stroll, *Calixtus II (1119-1124)*, Leiden 2004, esp. pp. 241-254, 301-312. Caffaro gave not only to ecclesiastics (2000 silver marks, mostly to the pope, 353 ounces of gold and £100 in Pavese *denarii*) but also to lay aristocrats from Rome: 155 marks to the Pierleoni and also jewellery, 100 to Pietro the urban prefect, 40 to Leone Frangipane, and 25 to Stefano Normanno.

<sup>4</sup> See, very generally, K. Jordan, *Zur päpstlichen Finanzgeschichte im 11. und 12. Jahrhundert*, in «Quellen und Forschungen aus italienischen Archiven und Bibliotheken», 25 (1933-1934), pp. 61-104. Calixtus II could be pretty explicit about his position here, according to Landolfo di San Paolo, who tried in 1120 to win a court case before him without any success: «frater, pecunia est res, de qua homo potest facere multum bonum. Tu pecunia non habes, nec tempus supersendi cause tue nunc est...» See Landulphi Iunioris *Historia Mediolanensis*, ed. C. Castiglioni, Bologna 1934 (*Rerum Italicarum scriptores*, 2<sup>nd</sup> ed., V. 2), c. 48 bis.

Let us begin with some data, so as to build up a picture of the use of money in urban politics. One particularly clear source is from Rome itself, the *Annales Romani*. These annals, for the years 1044-1073, 1100-1121, and 1181-1187, are a heterogeneous group of separate texts (and the first is itself also probably not a single text), copied into a miscellany now in the Vatican in no particular order; but the twelfth-century hands are probably Roman, and the content is in each case written from a Roman point of view<sup>5</sup>. The first two sets give some prominence to money. So in 1046, the exiled pope Benedict IX «divided the Roman *populus*», «per praemii cupiditatem», and took back the papacy; in 1058 Benedict X gained the fidelity of «the majority of the Roman *populus*» and the «*comites*» around the city (here, as elsewhere, the aristocracy of the Campagna Romana), «data pecunia». In 1059 Hildebrand sent «*pecunya* [sic]» to Rome to Leone di Benedetto Cristiano (the ancestor of the Pierleoni) to divide the *populus* against Benedict X; in 1062 Hildebrand and Leone distributed «*pecunia per urbem*» all night long («*tota nocte illa*» – the implication is “in secret”) to prevent the coronation of Cadalo of Parma as pope the next day; after a stand-off, once Cadalo ran out of money («*pecunia deficiente*») his backers the *comites* left him, so he had to return to Parma. The antipopes against Paschal II were defeated in similar ways: Paschal gave *pecunia* to Giovanni di Oddolina, the main supporter of the bishop of the Sabina, and the latter’s papal project failed; his successor the archpriest Maginulfo was more successful, defeating Paschal’s forces in the Circo Massimo in 1105 with the support of a variety of powerful Romans, but once again «when Maginulfo’s *pecunia* ran out, all his *coniuratio* left him», and he had to flee. In 1120, the followers of Gregory VIII were similarly persuaded to give in by Pietro Leone, «accepta pecunia», on behalf of Calixtus II, who also gained the «*fidelitas*» of «*plures equites hac pedites*» in the city, «data pecunia»<sup>6</sup>.

The papal biographies written by two influential cardinals, Pandolfo in the 1130s and Bosone up to the 1170s, tell similar stories. Pandolfo’s biography of Paschal II relates that Paschal used 1000 *unciae* of gold sent from Count Roger of Sicily to get Clement III out of Rome at the end of the latter’s life in 1099. The pope also in 1116 attempted to gain the support of Tolomeo of Tuscolo with the castle of Ariccia, and that of Tolomeo’s allies with gold, silver and jewels. Pandolfo’s detailed and bitter account of the accession of Honorius II in 1124 depicts the Frangipani and their allies imposing Honorius against the will of the cardinals, and then, by night («*nocte*»), buying off Honorius’s two main lay opponents, Pietro the urban prefect and Pietro Leone, with, respectively, the castle of Formello “with extra gifts” and

<sup>5</sup> Ed. L. Duchesne in *Le Liber Pontificalis*, II, Paris 1955 [henceforth *LP*], pp. 331-350. For the manuscript and the heterogeneity of the text, see D. Whitton, *The Annales Romani and Codex Vaticanus Latinus 1984*, in «*Bullettino dell’Istituto storico italiano per il medio evo e archivio muratoriano*», 84 (1972-1973), pp. 125-143.

<sup>6</sup> *LP*, pp. 332, 334, 336-337, 345-347.

the city of Terracina (though this was later taken back). Honorius had the opposition of the cardinals for two days but did not resign, «recordans ... Romanorum profundam avaritiam», and the «cardinales venditi» backed down<sup>7</sup>. In later decades, Bosone uses the image of money in much the same way, and moralises about it more generally. Anacletus II in 1130, «relying on his multitude of wealth», attacked Innocent II in the houses of the Frangipani, but failed; so he despoiled the treasuries of San Pietro in Vaticano and Santa Maria Maggiore, and with this «sought to buy the majority of the venal city, corrupting the *maiores* and oppressing the *minores*», with nearly complete success. Alexander III's opponent Victor IV in 1161 suborned some senators (we are now in the period of the formalised Roman Senate) with *pecunia* to get them to imprison Alexander in Trastevere, though this time the procedure failed. In 1165, during the wars with Frederick Barbarossa, Alexander appointed a new papal vicar in Rome, to whom the majority of the Roman *populus* swore the “customary fidelity” for “not a small amount of money”. In 1166, Barbarossa, since he could not subdue Rome by arms, chose «pecuniarum largitio» instead, and, «since Rome, if it finds a buyer, offers itself venally», many in the city happily fell for this, until Alexander countered it with the money of the church. The following year, during the German siege of Rome, the king of Sicily managed to get «pecunia multa» into the city for Alexander, who used part of it to bind the Pierleoni and Frangipani «more tightly» to him, so that they would organise the defence of the city; he used the rest to pay for the defence of the city gates, before Rome was saved by the plague that destroyed Barbarossa's army<sup>8</sup>.

These three texts are not always to be taken literally, of course; but they certainly represent a forceful, and century-long, way of expressing the rules for obtaining loyalty from Roman political players. And they are backed up by many more sources, from outside the city, who may be expressing the European “common knowledge” about Rome, but all the same write about it in very similar ways. Let us follow them chronologically, again from 1050, restricting ourselves to contemporaries or near-contemporaries. Pietro Damiani, an eye-witness, accused both Benedict X in 1058 and Cadalo of Parma in 1062 of paying *pecunia* to the Roman *populus* in return for support. In 1059, according to the slightly later and ferociously anti-Gregorian Benzoni of Alba, Hildebrand “corrupted” the Romans with «multa pecunia»

<sup>7</sup> *LP*, pp. 297, 303; *Liber pontificalis prout exstat in codice manuscripto Dertusensi*, ed. J.-M. March, Barcelona 1925, pp. 203-206, also re-edited in *Liber pontificalis nella recensione di Pietro Guglielmo OSB e del card. Pandolfo*, ed. U. Přerovský, 3 vols., Roma 1978 (Studia gratiana 21-23), at II, pp. 750-754. The latter editions of Pandolfo, based on an older and slightly fuller manuscript from Tortosa, supersede Duchesne's for all the popes after 1099, but I only cite them for Honorius, for their textual changes are only significant for that pope, and the books are hard to find. Note that March, pp. 41-60, does not consider Pandolfo to be the author of the Paschal life; the argument for Pandolfo seems more plausible to Přerovský, I, pp. 111 ff., and to me.

<sup>8</sup> *LP*, pp. 380, 398, 412, 414, 416-417. Money for the “customary fidelity” was, however, by now an established tradition: see below, text to note 37.



in order to get Nicholas II crowned (this matches the more neutral view of the *Annales Romani*), and did the same to get himself elected pope in 1075. For the equally ferocious Gregorian Bonizone of Sutri, Cadalo of Parma in 1062 with gold and silver again won over many Romans, «avari et cupidi», this time including aristocrats, *capitanei*, though he was foiled by the «magnifica dona» given against him by Goffredo of Tuscany; a year later, in his second period in Rome, by now restricted to Castel Sant'Angelo, he paid his main supporter Cencio di Stefano 300 pounds of silver to get away. Another pro-Gregorian commentator, Berthold, says that Henry sent gold and silver to Rome in 1080 to “corrupt” the Romans to his side; yet another, Bernold, tells us that Henry was accepted in Rome in 1083 «partly induced by *precium*, partly seduced by many promises», and that a year later the Byzantine emperor sent «maxima pecunia» to Henry to fight the Normans, but the latter spent it instead «ad conciliandum sibi vulgus Romanorum», so that he could enter the city to be crowned emperor. In the same period, according to Donizone the biographer of Matilde of Canossa, Matilde sent Gregory VII 200 pounds of silver (or alternatively 700 pounds of silver and 94 of gold) to help him combat Guiberto/Clement III<sup>9</sup>.

The French abbot Geoffroy of Vendôme was himself an actor in 1094, when Urban II was temporarily in Rome and restricted to the fortified Frangipani quarter near the Colosseum. While Geoffroy was there, Ferruccio, keeper of the Lateran palace for Clement III, offered it to Urban for money, which Urban and his cardinals could not afford; Geoffroy did have it, however, according to a letter of his written twenty years later, which claims he spent 13,000 *solidi* on the deal between gold, silver, money, mules and horses. Later, in 1099, following Donizone again, Clement III as one of his final acts «began to seduce the Roman citizens with *precium*» against Paschal II<sup>10</sup>. Paschal himself in a letter of 1105 says that some Romans supported Maginulfo against him because they did not have access to munera from his curia. A letter from a later papal schism, in 1119-20, from the archbishop of Trier to Henry V, described the thesaurum et pecuniam which he distributed to Henry's Roman clientes in favour of the imperial pope, Gregory VIII. In 1130, according to Falcone of Benevento, Anacletus II's brother Leone Pierleoni gained the support of ‘nearly all’ the Roman *populus* by opening the

<sup>9</sup> *Die Briefe des Petrus Damiani*, II, ed. K. Reindel, *MGH, Briefe der deutschen Kaiserzeit*, IV.2, München 1988, nn. 58, 89 (p. 533); Benzo Albensis, *Ad Heinricum imperatorem libri VII*, ed. H. Seyffert, *MGH, SRG*, LXV, Hannover 1996, VII.2 (pp. 596, 602); Bonizo episcopus Sutrinus, *Liber ad amicum*, ed. E. Dümmler, in *MGH, Libelli de lite*, I, Hannover 1891, pp. 571-620, VI (p. 595); *Die Chroniken Bertholds von Reichenau und Bernolds von Konstanz, 1054-1100*, ed. I.S. Robinson, in *MGH, SRG*, NS XIV, Hannover 2003, pp. 380, 431, 439; Donizo, *Vita Matildis*, ed. L. Bethmann, *MGH, Scriptores* [henceforth *SS*], XII, Hannover 1856, pp. 348-409, II, lines 300-303 (a contemporary manuscript gloss, ed. p. 385n, has the alternative figure – it was metal from the Canossa church treasury, melted down).

<sup>10</sup> Geoffroy de Vendôme, *Œuvres*, ed. G. Giordanengo, Turnhout 1996, pp. 288-290; Donizo, *Vita Matildis* cit., II, lines 886-887.

treasury, in an account which matches that of Bosone. In 1149, we return to John of Salisbury, who narrates that Eugenius III was honorably received by the Roman magnates, who «smelt the gold and silver of Gaul»<sup>11</sup>.

This list is certainly not complete; there are so many chronicles, large and small, for this troubled period, when Rome was more than usually the focus of historians' attention all over the West. But the collection of references set out here are fairly homogeneous, and some of their common features deserve to be developed. The first point is that nearly all of them concern only money or treasure. It is very notable how seldom any pope rewards a Roman supporter with land in these texts; only Pandolfo's references to Ariccia, Formello and Terracina stand out here. The second is that these rewards are above all for political support at times of papal schism or disputed election. This may not be that significant, since a rival pope was normally the focus of political dissidence in the city in this period. What is significant, on the other hand, as a third point, is that such cessions are almost always directed to the laity, rather than to the clergy, and after papal elections, not during them. Charges of simony are actually rather rare in these sources (Pandolfo leans over backwards not to say it for the actual election of Honorius II, although the *Historia Compostellana* says it for Anacletus II, Benzzone of Alba says it with some verve for Gregory VII, and if one went back to Gregory VI one would find it without difficulty<sup>12</sup>). It is essentially the Romans who can be "bought" in these narratives. That is to say, it is the stability of the position of popes in the city, rather than their actual holding of office, which is at stake – even though it is clear that popes whose Roman support has vanished have lost a lot, and several have to give up papal claims.

Less consistent is the status of these rewards. Words like *donum* are found in the sources, a gift in return for loyalty, but also *pretium*, indicating that the Romans have been literally, and much less honourably, bought. Given that our sources are hardly neutral pieces of sociology, one could reasonably conclude that the greater or lesser honour of such transfers of wealth depended on the political standpoint of the chronicler. (It should be noted that the word "bribe" does not exist in the Latin of this period; a *donum* or *munus* may be represented by writers as honourable or dishonourable/corrupt, more or less a "bribe" in our terms, but the word remains the same; only

<sup>11</sup> *Udalrici codex*, ed. P. Jaffé in *Rerum germanicarum*, V, *Monumenta Bambergensia*, Berlin 1869, pp. 1-469, n. 124 (pp. 235-236); *Pontificorum Romanorum vitae*, ed. J.M. Watterich, 2 vols., Leipzig 1862, II, p. 110; Falco Beneventanus, *Chronicon*, in *Patrologiae cursus completus, series latina*, ed. J.P. Migne [henceforth *PL*], CLXXIII, Paris 1854, cols. 1149-1262, at col. 1203; for 1130 see also *Historia Compostellana* cit., III. 23, which hints at simony too; John of Salisbury, *Historia pontificalis*, ed. M. Chibnall, Edinburgh 1956, c. 21.

<sup>12</sup> For Gregory VI, see the texts assembled and criticised in G.B. Borino, *L'elezione e la deposizione di Gregorio VI*, in «Archivio della Società romana di storia patria» [henceforth «ASRSP»], 39 (1916), pp. 141-252, 295-410, at pp. 208-222. For earlier popes, see for example Rodolfo il Glabro, *Cronache dell'anno Mille*, ed. G. Cavallo and G. Orlandi, Milano 1989, IV.4, 17 for accusations of simony against John XIX and Benedict IX, neither of whom are very likely to have had to pay much for their effectively hereditary succession; the moral panic was beginning then.

the giving of a *pretium*, a much more charged word, can really be assimilated to what we would call bribery without question<sup>13</sup>). What does, all the same, seem clear is that it was standard in the political practice of Rome in the century under discussion to reward political affiliation with money and precious metals. Otherwise put, Roman political actors expected to be paid, at least by 1050, and there are indications in our scarcer sources that this practice was at least a century old then too<sup>14</sup>.

This is important; for it was not at all common in the Europe of the period under discussion here. By the twelfth century, it is true, rulers all across Europe had come to see that warfare could not be waged without money, in large part at least. So, for example, when John of Salisbury, in his own account at least, represented himself as setting out a passionate denunciation of *pretia* and *munera*, including the quote I began with, and the dishonest and avaricious practices of many (though not all) of the leaders of the Roman church – and also improper gifts to the Romans – he was actually talking to his friend Pope Hadrian IV. The pope laughed, thanked him for his openness, and in reply told a parable of the parts of the body who were disgusted at the greed of the stomach, and went on strike so that it would not be fed; as a result, the whole body became weak. Look at it in the round, said Hadrian (according to John): if you don't accumulate *tributa*, you can't pay an army, «quia nemo potest sine stipendiis militare»<sup>15</sup>. Some of our most important European political actors – like Henry IV, paid by the Byzantine emperor, or the Normans, paid by many – acted as mercenaries on occasion. But even in England (whence Hadrian came, and where John was writing), where the early monetisation of warfare is particularly well-attested, normal political loyalty was still expressed in terms of the service due in return for cessions of land and political rights<sup>16</sup>. This was the standard currency of high politics everywhere in our period; this is what a political actor expected for his service. Not in Rome. It is scarcely surprising that there should often be a tone of hostility in our sources, for loyalty given so easily, and apparently often so flightily, for money. This was the age of the major moral panic over simony, after all, which was only one expression of a clear unease, indeed fear, in a

<sup>13</sup> See most recently *The languages of gift in the early middle ages*, ed. W. Davies and P. Fouracre, Cambridge 2010, esp. the conclusion.

<sup>14</sup> In Liutprand of Cremona, *Historia Ottonis*, in Liutprandi *Opera* cit., pp. 159-175, c. 17, John XII, «non ignorans quam facile Romanorum mentes pecunia posset corrumpere», promises money to the Romans if they will attack Otto I in 964; in *Chronica pontificum et imperatorum S. Bartholomaei in Insula Romani*, in *MGH, Scriptores*, XXXI, ed. O. Holder-Egger, Hannover 1903, pp. 189-223, at p. 214, a thirteenth-century addition to the text but plausibly using earlier material, Boniface VII, «sparsa per urbem pecunia», takes back the papacy in 984 from John XIV. Other early references focus on the more conventional sin of selling justice (see e.g. below, note 28).

<sup>15</sup> *Policraticus*, ed. Webb cit., VI.24 (Webb, II, p. 72 for the quote). VI.25 ff. is John's reply with esprit d'escalier.

<sup>16</sup> J. Prestwich, *War and finance in the Anglo-Norman state*, in «Transactions of the Royal historical society», 5 ser., 4 (1954), pp. 19-43; S. Reynolds, *Fiefs and vassals*, Oxford 1994, pp. 342-373.

more commercial world, that everything in politics could be bought<sup>17</sup>. Rewarding people with land was normal and honourable; rewarding with money was dangerous and potentially polluting. Romans seemed not to care about this danger, and writers elsewhere condemned them for it. But for us as analysts, condemnation is (or should be) beside the point; what matters is to understand why the Romans dealt like this. The issue is not one of morality, but political economy. Why did the economy and society of Rome in our period favour a political practice based on money?

To answer this question, we have to look at it from two separate directions. First, and most important, the resources of the popes, who were seldom challenged as the formal rulers of the city of Rome in the period 1012-1143/44; and second, the interests of the Roman aristocracy itself, and more generally the urban middling *élite* which is what is mostly meant by the word *populus*<sup>18</sup>. The popes were not poor. It is true that some sources claim they were; the *Vita Leonis IX papae*, for example, says that there were no papal revenues when the pope took over in the city in 1049<sup>19</sup>; but the monetary dealings listed above by themselves prove otherwise. All the same, it does seem that they did not in this period have access to lands in quite the way that other leading political powers did in our period in western Europe. The pope was the *dominante* in Lazio, certainly, but his direct political control in most of the region was much less complete. The outlying territories to the north-west, north and south-east were by 1050 largely in the hands of autonomous aristocrats, the people whom the *Annales Romani* generically call *comites*, as a result of the patrimonialisation of office-holding and the localisation of political/judicial power into castle-based signorial territories, which was a common trend in eleventh-century Europe. The chaos of papal rivalry in the century after 1050 was not a favourable basis for the reversal of these processes. Only in the mid-twelfth century did popes, notably Eugenius III and Hadrian IV, begin to rebuild their proprietorial and political rights in parts of Lazio, castle by castle, often for payments in money; and it was only with Innocent III at the end of the century that the papacy re-established its control over most of Lazio as a public power<sup>20</sup>. In our period, therefore, the standard

<sup>17</sup> See C. Violante, *I laici nel movimento patarino*, in *I laici nella «societas cristiana» dei secoli XI e XII*, Milano 1968, pp. 587-687; L.K. Little, *Religious poverty and the profit economy in medieval Europe*, London 1978, esp. pp. 8-41; R.I. Moore, *Family, community and cult on the eve of the Gregorian reform*, in «Transactions of the Royal historical society», 5 ser., 30 (1980), pp. 49-69; T. Reuter, *Gifts and simony*, in *Medieval transformations*, ed. E. Cohen and M. B. de Jong, Leiden 2001, pp. 157-168. Some of these works assume, incorrectly, that commerce, profit, etc., were a new development of the eleventh century; but they of course did develop notably in the period.

<sup>18</sup> L. Mosiici, *Alle origini del comune romano*, Roma 1980, pp. 24-27.

<sup>19</sup> *Die Toulser Vita Leos IX.*, ed. H.-G. Krause, MGH, Scriptorum, LXX, Hannover 2007, II. 8.

<sup>20</sup> P. Toubert, *Les structures du Latium médiéval*, Roma 1973, pp. 1068-1081, gives the best brief account of all this; he traces the strategy back to Leo IX, with a “nouvelle étape” under Eugenius. For Innocent III, see most recently S. Carocci, «*Patrimonium beati Petri*» e «*fidelitas*», and M.T. Caciorgna, *La politica di Innocenzo III nel Lazio*, both in *Innocenzo III, urbis et orbis*, I, ed. A. Sommerlechner, Roma 2003, pp. 668-690 and 691-726.

European political currency of cessions of castles and rural office-holding/judicial powers was not so readily available to popes. They probably always maintained as many lands and castles as any other major Italian bishop, but the stakes were higher in Rome, particularly once it became the focus of international interest. It took an alliance of most of the northern Italian cities twenty years to defeat Barbarossa, after all; so, when popes had to confront German armies on their own, they needed more resources than their surviving network of *castra specialia* could command.

Around Rome itself, in a wide zone stretching 20-25 kilometres from the city walls, in all some 1500 square kilometres in size, and also inside the city, the pope did keep large amounts of land, and here there were also few or no castles to break up the political hegemony of the city and its rulers. This large sub-region, the *agro romano*, was in fact almost wholly owned by the churches of Rome, with almost no lay landowning at all<sup>21</sup>. The pope did not by any means control all of these churches directly, but they certainly had a hegemony at least over San Giovanni in Laterano and San Pietro in Vaticano and their dependencies (San Pietro's lands were very extensive; San Giovanni's less so), and the papacy as an institution also seems plausibly to have owned most of the sector of land east of the Porta San Giovanni – as far as can be seen in the absence of the papal archive from this period<sup>22</sup>. But, outside the city and the belt of vineyards around it, these lands were mostly leased out in large blocks on long-term leases, to aristocrats and other important urban families. This does not mean that the church lost ultimate control of them, and it also kept at least part of the surplus which could be taken from them; they were secure bases for the wealth of the Roman churches as a group and the pope in particular<sup>23</sup>. But they were not lands that could easily be alienated for the immediate needs of a political crisis, as was the characteristic situation at times of papal schism. In the long run, Roman churches did redirect their leasing policies for political reasons, for example to rising urban families such as the Frangipani, but this was not much use if one needed to confront (say) the short-term danger posed by Cadalo of Parma in 1062 and 1063.

The movable resources of the papacy were, by contrast, extremely varied. One was, without doubt, the rents and other dues which came from the lands

<sup>21</sup> C. Wickham, *Iuris cui existens*, in «ASRSP», 131 (2008), pp. 5-38; C. Wickham, *La struttura della proprietà fondiaria nell'agro romano, 900-1150*, in «ASRSP», 132 (2009), in press.

<sup>22</sup> For Vatican properties, see above all L. Schiaparelli, *Le carte antiche dell'Archivio Capitolare di S. Pietro in Vaticano*, in «ASRSP», 24 (1901), pp. 393-496, 25 (1902), pp. 273-354 [henceforth SPV], nn. 16-18; for Lateran properties, *Acta pontificum romanorum inedita*, ed. J. von Pflugk-Harttung, 3 vols., Tübingen 1881 and Stuttgart 1884-1886, III.142, and P. Lauer, *Un inventaire inédit des revenus fonciers de la basilique du Latran au XII<sup>e</sup> siècle*, in «Mélanges d'archéologie et d'histoire», 42 (1925), pp. 117-124; see Wickham, *La struttura della proprietà* cit., text to n. 81, for papal lands.

<sup>23</sup> M. Lenzi, *La terra e il potere*, Roma 2000, pp. 48-66, 119-136. Rents were generally low, but made up for by the twelfth century by often substantial *entrature* or entry-fines; I will argue elsewhere that these probably always existed, hidden by the stability of the formulae of emphyteusis in earlier centuries.

just mentioned. Rents and entry-fines from aristocrats were in money; rents from cultivators, when land was exploited directly by the church, were in kind, but grain and other produce could easily be turned into money by selling them in the city markets, given that Rome was one of the largest cities in Europe. Rome was also a major commercial and artisanal centre, and the church took its cut from this through urban ground rents and again entry-fines, as well as money from the sales of leases by their holders; and the pope, in particular, benefited from customs dues at the city gates and the Tiber ports<sup>24</sup>.

Rome was furthermore, of course, a major focus for pilgrimage. Pilgrims brought so much money with them that Rome did not have to mint its own coins from the 980s to the 1180s, but never ever seems to have run short of cash for large-scale transactions<sup>25</sup>. The pilgrim economy deserves a focussed study, but it is at least clear that it was overwhelmingly centred in the *Civitas Leoniana*, the future Borgo between San Pietro and Castel Sant'Angelo, which sees a concentration of shops in our documentary sources for the period; this highly lucrative area was essentially owned by San Pietro and its dependencies, even if other churches tried to get sections of it when they could<sup>26</sup>. Pilgrims paid rent and bought food and drink; they often died in the Borgo, and San Pietro had the rights to the goods of the intestate; they also left very substantial donations on the altars of San Pietro, which Leo IX and Gregory VII made sure to take over from the "semi-lay" *mansionarii* who had controlled them hitherto<sup>27</sup>. It is still possible to find books which claim that Rome was only prosperous because of the papal court and the pilgrim trade; this claim cannot be sustained. But the economy of the city must have been very substantially affected by the latter. Both the food marketing and the artisanal production of the city would have been influenced, and indeed reorientated, by this constant demand, as any tourist city, however otherwise eco-

<sup>24</sup> S. Carocci and M. Vendittelli, *Società ed economia (1050-1420)*, in *Roma medievale*, ed. A. Vauchez, Bari 2001, pp. 71-116, at pp. 73-88; I. Ait, *Per un profilo dell'aristocrazia romana nell'XI secolo: i rapporti commerciali con l'Africa*, in «Studi storici», 38 (1997), pp. 323-338; M. Vendittelli, *Mercanti romani del primo Duecento «in urbe potentes»*, in *Rome aux XIII<sup>e</sup> et XIV<sup>e</sup> siècles*, ed. É. Hubert, Roma 1993, pp. 89-135; Mosiici, *Alle origini del comune romano* cit., pp. 29-49, 153-173. For gates, etc., see above all É. Hubert, *Espace urbain et habitat à Rome du X<sup>e</sup> siècle à la fin du XIII<sup>e</sup> siècle*, Roma 1990, pp. 97-104; for the early period see also L.M. Hartmann, *Grundherrschaft und Bureaukratie im Kirchenstaate vom 8. bis zum 10. Jahrhundert*, in «Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte», 7 (1909), pp. 142-158, at pp. 148, 154.

<sup>25</sup> Toubert, *Les structures* cit., pp. 575-584, based on the documentary evidence. Rome's excavations all the same show that less money was lost in this period than before the early eighth century or after c. 1200, implying that it was less widely used in daily life: see A. Rovelli, *Monetary circulation in Byzantine and Carolingian Rome*, in *Early medieval Rome and the Christian West*, ed. J.M.H. Smith, Leiden 2000, pp. 85-99, for a crisp summary. It is likely that much of the *pecunia* distributed about the city was not in the form of coins.

<sup>26</sup> See e.g. SPV, nn. 12, 13, 16, 35, 42; *Ecclesiae S. Maria in Via Lata tabularium*, ed. L.M. Hartmann and (for vol. 3) M. Merore, 3 vols., Wien 1895-1913, nn. 36, 152.

<sup>27</sup> SPV, nn. 16, 19 for intestacy and donations; T. di Carpegna Falconieri, *Il clero di Roma nel medioevo*, Roma 2002, pp. 144-147 for the *mansionarii*.

nomically active, is today. And San Pietro, papally controlled, took a large share of the profit to be made from it.

To these local resources we have to add the international sources of money available to the popes. These have been better studied, from Karl Jordan onwards. The papacy had long-standing rights to annual gifts from the kings of England, to which were added the kings of Sicily in the early twelfth century, and Iberian rulers as well. They had annual renders from monasteries, not so much in most cases, but across Europe such sums mounted up. They had always taken money for the conferring of *pallia*, when this took place in Rome (as with the archbishops of Canterbury). They had also always taken money for papal privileges, and this practice developed substantially after 1100, as the cases of Caffaro and Diego Gelmírez both show; the same is true for papal justice, about which outsiders complained with regularity, and with ever greater insistence when this justice expanded so dramatically after the 1130s<sup>28</sup>. These last two are, as we have seen, often seen as signs of the venality of particular popes; one can make that moral call if one wants, of course. The cost of papal justice, thanks to the *munera* necessary to make it work, indeed far outweighed that of judicial recourses elsewhere in Europe in the twelfth century – which did not, nonetheless, at all diminish the desire of litigants to use it<sup>29</sup>. But the point is that these incomings were part of an established and long-lasting system, which hard-line critics (who included most of the writers of our narratives) wished to criticise, but which pragmatic popes like Calixtus II and Hadrian IV were happy to defend. They were a standard and stable, probably accountable, part of the papal *Finanzverwaltung*.

Finally, we must include the very substantial one-off gifts of money or treasure by political players in the different papal crises of our period. Beatrice and Matilde of Canossa paid for several of the papal financial interventions of the eleventh century listed earlier; the counts and then kings of Sicily paid for several in the twelfth<sup>30</sup>. The kings of Sicily were particularly rich

<sup>28</sup> For all this see Jordan, *Zur päpstlichen Finanzgeschichte* cit.; D. Whitton, *Papal policy in Rome, 1012-1124*, D. Phil. thesis, University of Oxford, 1979, pp. 294-308; for later in the century, V. Pfaff, *Aufgaben und Probleme der päpstlichen Finanzverwaltung am Ende des 12. Jahrhunderts*, in «Mitteilungen des Instituts für österreichische Geschichtsforschung», 64 (1956), pp. 1-24, including, pp. 2-13, a careful discussion of the monastic renders in the *Liber Censuum* (which is, however, by no means a full guide to papal resources). For the papal recourse to credit under Alexander III, see also F. Schneider, *Zur älteren päpstlichen Finanzgeschichte*, in «Quellen und Forschungen aus italienischen Archiven und Bibliotheken», 9 (1906), pp. 1-37, at pp. 1-14. Paying for papal justice in an earlier period: e.g. the *Acta concilii Causeiensis* of 995, ed. G.H. Pertz, in *MGH, SS, III*, Hannover 1839, pp. 691-693, at p. 691, on a failed judicial hearing because of *munuscula* unwisely not given to Crescentius II; paying for privileges: e.g., *The life of bishop Wilfrid by Eddius Stephanus*, ed. B. Colgrave, Cambridge 1927, c. 34. But these are examples chosen at random out of many.

<sup>29</sup> C. Wickham, *Courts and conflict in twelfth-century Tuscany*, Oxford 2003, e.g. p. 276.

<sup>30</sup> D. Zema, *The houses of Tuscany and of Pierleone in the crisis of Rome in the eleventh century*, in «Traditio», 2 (1944), pp. 155-175, rather starry-eyed.

benefactors; and they had lay Romans on their payroll too, as is shown, in particular, by the survival of a formal document in which King Roger II in 1134 agreed a yearly payment to the Pierleoni of 240 *unciae* of gold – a notable sum, worth each year about 20% more than the one-off payment made to the same family by Caffaro fourteen years before<sup>31</sup>. Against the popes and lay factions supported by these parties, the German king/emperors paid the factions supporting their favoured popes in return. We cannot tell if these gifts made up for the war damage carried out by the same powers, but, however partial a recompense, it was certainly a monetisation of such losses.

The papacy was therefore cash-rich (and treasure-rich), and relatively short of land and other political rights to give to its clients. This made it highly atypical among major European powers, all of which had firm landed bases, and, however rich in gold and silver they were as well (as, evidently, were the kings of Sicily), essentially gained all that wealth from the control of land, which they could also dispose of for political purposes, and regularly did. It also was atypical of Italian bishops, even of major commercial cities, all of whom based their power – much smaller-scale than that of the popes – on their networks of castles and estates. City communes in north-central Italy, for their part, did have access to some of the resources the pope controlled in Rome, but the pilgrim and international incomings of the pope put it into a different league here too. Only Venice maintained a major commercial and political operation with almost no land base at all; but even Venice did not match the papacy in the scale of the resources routinely available to it which were not based on the control of land, and other powers did not remotely do so. This made papal power different, even without counting in the religious issues which structure the narratives of the period; different, and, to the eyes of writers and political players from more “normal” polities, disturbing. This difference in papal resources was only reinforced by the fact that outside powers, emperors or marquises of Tuscany or Normans, when they intervened politically in Rome, had to do it with money, as they had no land there to give.

Turning more briefly to the Roman aristocracy: this was a period in which the major political players in the city were from relatively new families. The Tuscolani popes of the period 1012-46 had presided over a period in which the old leading families of *consules et duces* of the tenth century – such as the *de Melioso*, and the various families whom we call the Crescenzi – had, more and more, left the papal court and begun to focus on the castle-based lordships which were crystallising at the same time: in part because they were becoming available, but largely precisely because the Tuscolani now dominated the papal power-structure so completely. So would the Tuscolani themselves when they lost power in Rome<sup>32</sup>. By contrast, the *élite* families which

<sup>31</sup> P.F. Kehr, *Diploma purpureo di re Roggero II per la casa Pierleoni*, in «ASRSP», 24 (1901), pp. 253-259; Caffaro, as above, n. 3, supplies the exchange rates for marks and *unciae*.

<sup>32</sup> See in general Toubert, *Les structures* cit., pp. 974-1000, 1015-1038. For the early history of



are newly visible in the city by 1050 – the Frangipani (the longest-attested), the Pierleoni, the Corsi, the Tignosi, the Bracciuti, the Normanni, the Sant'Eustachio, the family of Cencio di Stefano – did not yet have substantial lands outside the *Agro romano*, and did not obtain them before the end of the century. By the mid-twelfth century, the families which had survived all had castles and wider lands, it is true. The Pierleoni in Isola Farnese, just outside the boundary of the *agro romano*, some time before 1107, seem to be the earliest attested, although the heirs of Cencio di Stefano appear in Tuscia Romana soon after, and the Frangipani would later follow them with greater enthusiasm in Marittima – though the first known papal cessions of castles to these families only begin with Honorius II's gifts of Formello and Terracina in 1124<sup>33</sup>. Even then, they all continued to deal above all in a city-based politics, and they continued to do so until well after our period ends. It is important to stress that these newer families were above all landed; urban and suburban possessions were the basis of their wealth, as they were for any other urban *élite* of the period. The importance of gifts of money for them would have been as an important extra, a way of gaining and showing wealth and power – and paying for retainers – and potentially changeable as political status changed, rather than as a stable basis for social position on its own. Perhaps they would have often been satisfied with further lucrative leases of urban property; we do not have the right documentation to tell, and our narratives would not give it much stress; but, in a city with an active money economy, money would do very well as an alternative. And if this was all true for the city's leaders, it was still more true for the wider *populus*.

It is also necessary to underline just how much richer the papal court was than any of the newer Roman families. It attracted them, so much so indeed that they sometimes sought to dominate it directly, most famously in the sharp Pierleoni-Frangipani oppositions and disputed papal elections of the period 1118-1138. After the end of that phase of schism, when put on the defensive by Innocent II's triumphal return, the *Romanorum nobiliores* were keen to attend the papal tribunal, the *consistorium*, in their silks in 1141, as Abbot Hariulf of Oudenburg put it in his account of his time there; and we see much the same in San Gregorio in Celio's account of its failed attempt to get

the Crescenzi, O. Gerstenberg, *Studien zur Geschichte des römischen Adels im Ausgang des 10. Jahrhunderts*, in «Historische Vierteljahrschrift», 31 (1937), pp. 1-26, and Whitton, *Papal policy in Rome* cit., pp. 103-183, are both better than G. Bossi, *I Crescenzi*, in «Dissertazioni della Pontificia accademia romana di archeologia», 2 ser., 12 (1915), pp. 49-126, though I doubt the detail of the genealogies in all of them. Toubert stresses that the various political shifts came without major changes in the office-holding personnel of Rome; this is certainly true, but does not affect the point made here.

<sup>33</sup> For the Pierleoni and the heirs of Cencio di Stefano, see respectively J. Ficker, *Forschungen zur Reichs- und Rechtsgeschichte Italiens*, 4 vols., Innsbruck 1864-1874, IV, n. 92; B. Trifone, *Le carte del monastero di S. Paolo di Roma dal secolo XI al XV*, in «ASRSP», 31 (1908), pp. 267-313, nn. 4-5; and for analysis Whitton, *Papal policy* cit., pp. 185-202, 233-236, 244-254. For the Frangipani, M. Thumser, *Die Frangipane*, in «Quellen und Forschungen aus italienischen Archiven und Bibliotheken», 71 (1991), pp. 106-163, at pp. 131 ff.

back the castle of Poli in a series of papal hearings in exactly the same period, 1140-1141<sup>34</sup>. Families of this kind wished to play by papal rules, whenever they were allowed to, and papal rules in this period involved money as the main reward for loyalty and dependence. We can see this at moments of political stability, with the Pierleoni and Frangipani in 1120 taking a cut of Caffaro's Genoese money; and we can see it, very evidently, at moments of crisis in our narratives, when rival papal patrons competed with cash.

I would argue, in fact, that the cash-based wealth of the papal court was the most important factor in the economic underpinning of the politics of the city in the period 1050-1150, the city- and money-focus of the urban *élite* families being less determinant. For one, the older families too, now called *comites* in Roman sources, were still, despite their castle-holding and land-based politics outside the *agro romano*, entirely happy to accept the monetary rewards offered by papal contenders, in just the same way as the urban *élite*; indeed, the Tuscolani would never have preferred to rule Tuscolo rather than to have had proper access to papal resources. Furthermore, looking later, once Innocent III had recreated a Lazio-wide political system, the leading city families of the early thirteenth century (most of them newer still than those discussed here) took as much advantage as they could of the new regional lordships that their papal or cardinal relatives could offer them, and did so without leaving their firm bases in the city<sup>35</sup>. Aristocrats always adapt quickly to the rules of the political game they find themselves in, so as to get the best advantage out of it. But there was at least no serious dissonance in our period, despite its air of generalised crisis, between what the popes could give and the economic horizons of the people in the city whom the popes needed most to reward.

Money also had a symbolic and religious role in Rome, in a context which seems not to have had any negative implications: the handing out of money was prominent in several of the main ceremonial moments of the city of Rome. The different (but related) *ordines* written down between the 1140s and 1190s by Benedetto, Albino and Cencio, which describe the ritual life of the city in great detail, lay down the payments to be made to participants on numerous occasions. Often, these are simply payments to cardinals, priests and singers for their participation in the rituals (and often with money from the altar of San Pietro, which as we have seen was a secure source of revenues)<sup>36</sup>; but on major occasions the laity were involved too. In particular, at

<sup>34</sup> E. Müller, *Der Bericht des Abtes Hariulf von Oudenburg über seine Prozessverhandlungen an der römischen Kurie im Jahre 1141*, in «Neues Archiv», 84 (1929), pp. 97-115, at p. 102; *Il regesto del monastero dei SS. Andrea e Gregorio ad Clivum Scauri*, ed. A. Bartola, Roma 2003, n. 7.

<sup>35</sup> S. Carocci, *Baroni di Roma*, Roma 1993, pp. 21-37; S. Carocci, *Il nepotismo nel medioevo*, Roma 1999; S. Carocci, *Baroni in città*, in *Rome aux XIII<sup>e</sup> et XIV<sup>e</sup> siècles* cit., pp. 139-173.

<sup>36</sup> *Le Liber Censusum*, eds. P. Fabre and L. Duchesne, 3 vols., Paris 1910-1952, II, pp. 90, 107-109, 130, 143, 151, 156, 168. See in general for processions B. Schimmelpfennig, *Die Bedeutung Roms im päpstlichen Zeremoniell*, in *Rom im hohen Mittelalter*, ed. B. Schimmelpfennig and L. Schmutge, Sigmaringen 1992, pp. 47-61; S. Twyman, *Papal ceremonial at Rome in the twelfth century*, London 2002.

papal elections, and every Christmas and Easter, a series of payments were made to all the orders of clergy, and also the urban prefect, the palatine judges, *scriniarii* and other officials, including, later, the city's senators. The makers of the very numerous temporary arches put up on Easter Monday along the Via Sacra from the Vatican to the Lateran, essentially members of the laity, were rewarded annually with sums varying between a few *denarii* and 45 *solidi* (and, for the *riione* of Parione, £6); so were a wide variety of *scolae* of artisans at Christmas and Easter. At papal elections the pope twice was required to throw money into the crowd, for different liturgical reasons; so did several papal officials at different points in the procession through the arches every Easter Monday; by the late twelfth century the *populus* also took "customary gifts" for their swearing of fidelity to incoming popes. And in the *laudes Cornomannie* held on the Saturday after Easter, a carnivalesque occasion involving all the population of Rome assembled around the archpriests of each *diaconia* of the city in the *campus* in front of the Lateran palace, one of the events involved each archpriest sitting backwards on a donkey trying to stretch back and grab a bowl with 20 *solidi* in it – until Gregory VII cancelled the *laudes* «after the expense of the war grew». These practices plausibly had imperial (Roman or Byzantine) roots in many cases<sup>37</sup>. The imagery of the ready availability of papal money can only have been reinforced by such events; the city's inhabitants watched the handing over of large sums, and sometimes had access to them themselves. By the mid-twelfth century, in particular, the senators and *populus* also took substantial 'customary gifts' for their swearing of fidelity to incoming popes; it is hard to know how much this was part of any ceremonial, but it must have been linked somehow to the ritual sequences just described.

Finally, Rome was atypical in that it was, so to speak, a non-hereditary monarchy, while at the same time being a single city state. With the single exception of Venice, no other polities with long-term non-hereditary rulers existed in Europe. The papal monarchy over Rome was hugely profitable, but any senior cleric could become pope and thus control the profits for an indefinite period; papal elections were thus potential, and usually actual, scenes of intense contestation, including the use of every financial weapon available to rival popes. (This continued until the firmer bureaucratisation of the election procedure later in the twelfth century; the schism of 1159 was already a slightly better-behaved process). The fact that these rivals were almost never Romans, except in the disputed election of 1130, made no difference, for foreign popes were no less dependent on political support in the city.

<sup>37</sup> *Le Liber Censuum* cit., respectively I, pp. 291-292, II, pp. 124-125, 146-147 (prefect, etc.); I, pp. 299-300, 304 (arches and *scolae*); I, pp. 299, II, pp. 123-125 (throwing money); II, p. 171 (*Cornomannia*); with, for "customary gifts", *Codice diplomatico del Senato romano dal MCXLIV al MCCCXLVII*, I, ed. F. Bartoloni, Rome 1948, n. 8, and *Gesta Innocentii pp. III*, in *PL*, CCXIV, Paris 1855, cols. XVII-CCXXVIII, c. 8. For one Byzantine payment ritual, see Liutprand, *Antapodosis* cit., VI.10.

Contrast city communes in Italy: they had a very different political practice, based on the opposition of factions, more or (usually) less successfully mediated through annually-changing collective rule or annual foreign *podestà*. Ideally, if a faction was defeated in any one year it could simply wait for the next. Even without that annual rhythm (which anyway often broke down into violence), the impulse of factional and family rivalry, with all its overtones of militarism and aristocratic honour, was quite sufficient as a motive in our communal narratives<sup>38</sup>; twelfth-century city chronicles in the rest of Italy rarely put much weight on buying political support with money, however commercial the city. And, indeed, factional rivalry was often a sufficient explanation in Rome too, when there were no papal schisms, especially in the 1110s and 1120s – Pandolfo never says money had anything to do with the fight over the urban prefecture in 1116 or the kidnapping of Gelasius II in 1118<sup>39</sup>.

This stress on faction rather than money became stronger, even in Rome, in the half-century after my period ends. It is significant that the Senate of 1144 onwards, the Roman city commune, was not associated in its formal dealings with narratives of buying support; and the popes were also largely absent from the city in the 1160s to 1180s. These narratives do continue, and sometimes involve individual senators, but they exist above all for papal reasons: because the papacy and its entourage, when it was in the city, was a rival to the Senate, still claiming monarchical powers, whether it could put them into practice or not; because there were still rival claimants to the papacy, until Italian politics quietened down in the 1180s; and because who was pope continued to have such enormous financial implications. But the way money was used after this period also changed. Gifts for papal justice and support certainly continued, and were indeed quasi-institutionalised. But as far as the Romans themselves were concerned, families more often got annual pensions from outside powers than single payments, in a generalisation of the Sicilian payments to the Pierleoni in the 1130s, which meant that political alliances were much more stable; and the actual beneficiaries of such monetary gifts were more often cardinals from leading families than their secular relatives. The rules of politics had shifted decisively by 1200, and the patterns outlined here were by then less relevant<sup>40</sup>.

The papacy in our period was the major power in Europe whose wealth least depended on the direct control of territory and landed property, and was therefore most liquid, most based on money and treasure. The secular political actors in the city in our period were for the most part firmly based in the city, and ambitions to be territorial powers, and in political terms to deal less in money, had not yet emerged among them. There was a ceremonial rhetoric

<sup>38</sup> See for example J.-C. Maire-Vigueur, *Cavaliers et citoyens. Guerre, conflits et société dans l'Italie communale, XII<sup>e</sup>-XIII<sup>e</sup> siècles*, Paris 2003, pp. 307-335.

<sup>39</sup> *LP*, pp. 301-313, 313-316.

<sup>40</sup> For the gifts of the period after the return of the popes to Rome in 1188, see A. Paravicini Bagliani, *La vita quotidiana alla corte dei papi nel Duecento*, Bari 1996, pp. 117-133; for annual pensions, Carocci, *Il nepotismo* cit., pp. 68-70.

of money of long standing in the city, which facilitated its acceptability as a political tool. And the non-hereditary nature of the papacy allowed rivalries to break out at each election, which gave plenty of space for the use of money to gain political support. These, particularly the first, seem to me to be the reasons why money mattered so insistently in the politics of Rome in the century 1050-1150. There was so much money visibly coming into the city that it is hardly surprising that lay political actors wanted a cut of it whenever they could. One could say that money was in Rome, in our period, simply the equivalent of land elsewhere; it looked less “honourable” as a recompense to outside observers, but that was simply because outside observers did not understand how Roman politics worked from the inside, and had no interest in knowing it – partly because they came from regions where such a politics simply seemed horrible, partly because if there was ever a period in which clerical writers were in a panic about money it was the age of “papal reform”<sup>41</sup>.

But money was different from land, as well. If one was given land, on any terms, as outright property, on lease, or by some form of conditional tenure, it remained in one’s possession, and could be seen – and, in cases of disloyalty, could in principle be taken back again. Money was not like this; it was not visible (handing over money was a much less public act, and therefore potentially could be improper; the fact that it sometimes was said to happen by night is particularly significant, for night-time acts were often regarded as *prima facie* illegal<sup>42</sup>); it also got spent, and thus both could not easily be given back and had to be renewed; and it was in our period a politically immediate, rather than a stable, resource. Hence the fact that money was given, not once, but often; and not just by one side in a dispute, but potentially by both. It looked all the worse to outsiders as a result. And it could run out. The lapidary phrase in the *Annales Romani*, which appears twice, as we saw, to describe events in 1062 and 1105, that once the money stopped they all went home, sums it up. Land did not run out for most rulers; money did; and politics could switch over when that happened. This inevitably meant that the politics of Rome was never as stable, in our period, as politics elsewhere. For reasons independent of praise or blame, just because of Rome’s peculiar economic and political structure, alliances were more fragile, and seemed more cynical to outside observers. But Hadrian IV was right<sup>43</sup>, the stomach did have to eat. That was why no pope had the slightest intention of changing the system of Roman politics, for all the chorus of complaint; until the territorial politics of Innocent III and his successors opened the door to a land grab by Roman baronial families which both dwarfed the greed of the years around 1100 and normalised Roman political practice in the eyes of the outside world.

<sup>41</sup> See J. Barrow, *Ideas and applications of reform*, in *The Cambridge history of Christianity*, III, ed. T.S. Noble and J.M.H. Smith, Cambridge 2008, pp. 345-362, esp. pp. 361-362, for a critique of this concept.

<sup>42</sup> Wickham, *Courts and conflict* cit., e.g. p. 195.

<sup>43</sup> So too Pfaff, *Aufgaben und Probleme* cit., p. 21.



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